

***United States Court of Appeals  
for the Second Circuit***



**APPENDIX**





# 76-2153

To Be Argued By:

GAGE ANDRETTA

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

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Docket No. 76-2153

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KHALIEB McKINNON, LAURENCE MINCY, DAVID WHEELER,  
Plaintiffs-Appellants,  
-against-

J.W. PATTERSON, JOSEPH W. PERRIN and ROBERT E.  
McCLAY, individually and in their capacities  
as Deputy Superintendents of Eastern New  
York Correctional Facility and Attica  
Correctional Facility, respectively,  
BENJAMIN WARD, in his capacity as New York  
Commissioner of Corrections, PETER PREISER,

Defendants-Appellees.

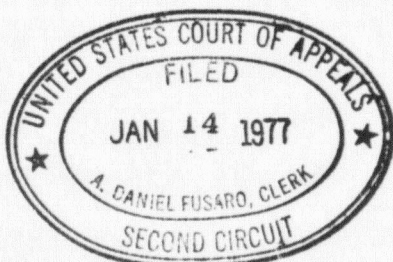
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Appeal from the United States District Court  
for the Southern District of New York (Stewart, J.)

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JOINT APPENDIX

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Richard A. Fuchs  
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Appellants  
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Dated: New York, New York  
January 14, 1977

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## UNITED STATES DISTRICT COURT

Jury demand date:

JUDGE STEWART

73 CIV. 3998

C. Form No. 103 Rev.

## TITLE OF CASE

## ATTORNEYS

KHALIEB MCKINNON, SANDY MOORE, RALPH LEE,  
 WILLIAM BROWN, LAURENCE MINCY, 5-22-74  
 AVTD WHEELER,

Plaintiffs,

-against-

J.W. PATTERSON, Superintendent of Eastern  
 New York Correctional Facility,  
 W. PERRIN and R. McCLAY, Deputy Supts.  
 GEORGE BARTHEL, Corr. Off., JOHN DOE,  
 and RICHARD ROE, Corr. Offs.,

Defendants.

J.W. PATTERSON, SUPT. OF EASTERN NEW YORK  
 CORRECTIONAL FACILITY, J.W. PERRIN AND R. McCLAY,  
 DEPUTY SUPTS, BENJAMIN WARD, NEW YORK COMMISSIONER  
 OF CORRECTIONS,

For plaintiff:

Khalieb McKinnon

#25290

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1-23-75:

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For defendant:

Louis J. Lefkowitz, Atty. Gen'l

State of New York, 2 World Trade

NYC 10047

## STATISTICAL RECORD

## COSTS

DATE

NAME OR  
RECEIPT NO.

REC.

DISB.

5 mailed X

Clerk

6 mailed ✓

Marshal

Basis of Action: 42 U.S.C.

Docket fee

Sec. 1983

Witness fees

Motion arose at:

Depositions



KHALIEB MCKINNON, SANDY MOORE, ETC. ET AL.

V.

J.W. PATTERSON, Supt. of Eastern N.Y. Correctional Facility etc. et al.

DATE	PROCEEDINGS	Date of Judgment
Sep. 19, 73	Filed Order permitting pliffs. to proceed in forma pauperis w/o prepayment of fees or costs or security therefor. So ordered, Stewart, J.	
Nov. 7-73	Filed Summons and true copy of order permitting in forma pauperis, and Marshall's return served on J.W. Patterson Supt. of Eastern N.Y. Corr. Fac., by Khalieb McKinnon, dtd 10/15/73	
	Mr. J.W. Perrin, Dep. Supt. by Khalieb McKinnon, dtd 10/15/73	
	Mr. R. McCloy, Dep. Supt. by Khalieb McKinnon dtd 10/15/73	
	Mr. George Barthel, by Khalieb McKinnon dtd 10/15/73	
	Mr. John Doe, C.O. E.N.Y. Corr. Fac. by Khalieb McKinnon dtd 10/15/73	
	Mr. Richard Roe, C.O. E.N.Y. Corr. Fac. by Khalieb McKinnon dtd 10/15/73.	
Nov. 13-73	Filed Order extending time to answer complaint to 11/28/73 - Stewart, J.	
Apr. 5-74	Filed order ext. defendants time to answer to 4-16-74 - Stewart, J. m/n by pro-se clerk.	
Apr. 12-74	Filed affdt. and notice of motion by pltf. for an order for judgment of default.	
Apr. 12-74	Filed memo end. on pliffs. motion this date--This court having previously ext. defts. time to answer until April 16, 1974, pliffs. motion for default judgment for failure to answer is hereby denied without prej. to renew after April 16, 1974. So ordered, Stewart, J. (notice mailed by pro se office). (pro se)	
Apr. 18-74	Filed memorandum of law in support of defts. motion to dismiss.	
Apr. 18-74	Filed defts. affdt. and notice of motion for an order dismissing pliffs. complaint ret. on: May 6, 1974.	
May 20-74	Filed order--ORDERED that pliffs. time to file an answer against the motion to dismiss their complaint is ext. to May 31, 1974. So ordered, Stewart, J. (notice to be mailed by pro se office).	
Mar 3-74	Filed pliffs. memorandum of law in support of their civil complaint.	
01-08-75	Filed MEMORANDUM ...for reasons indicated, we grant the motion of defts. to dismiss insofar as it relates to administrative "keep-locks" giving rise to procedural due process claims, and deny it in all other respects. So ordered. - Stewart, J. m/n by pro-se clerk.	SASM
01-23-75	Filed pliffs. notice of appearance.	
01-23-75	Filed notice of motion for an order pursuant to rule 54(b) ret. 5-15-75.	
01-23-75	Filed pliffs. memorandum in support of reconsideration.	
01-23-75	Filed affdt. and Order that James G. Smith, E. Manfredoia or any of them, be authorized, to make service of the summons and amended complaint in this action upon Benjamin Ward. - Clerk	
01-29-75	Filed summons with affdt. of service of Fred A. Manfredoia that he served a writ of complaint upon Benjamin Ward a deft. at 310 W. 10th St. NYC on 1-23-75.	
01-29-75	Filed pltf. AMENDED COMPLAINT	RAF
05-01-75	Filed defts. notice of motion for an order pursuant to rule 54(b) and in interest of justice vacating its order of 1-10-75. ret. 5-15-75	
05-01-75	Filed memorandum of law in support of defts. motion for reconsideration and in opposition to pliffs. motion for reconsideration.	
05-13-75	Filed pliffs. reply memorandum of law in opposition to defts. motion for reconsideration.	
05-13-75	Filed defts. reply memorandum in support of defts. motion for reconsideration.	
05-13-75	Filed defts. J. W. Patterson, Ramon R. McCloy and Ward AMEND	ISL
05-13-75	Filed pliffs. motion for reconsideration pursuant to rule 54(b) and in interest of justice, pliffs. notice of motion for reconsideration in support of their motion for reconsideration. On Jan. 7, 1975 is vacated in part, so that defts. motion for reconsideration is denied. Defts. motion for reconsideration is denied. Stewart, J. m/n by pro-se	
05-13-75	Filed pliffs. motion for reconsideration (first set)	
05-13-75	Filed pliffs. request for production of documents	



et.al. v.

Fatterson

U.S. Rev. Civil Docket Continuation

page 3

DATE	PROCEEDINGS	Date Ord Judgment
01-22-76	Filed stip. and order that the time of defts' to respond to pliffs' first set of interrog., request for production is ext. to 2-17-76 -- Stewart, J.	
02-20-76	Filed stip. and order ext. defts time to comply with plts interrog. (First Set) to 3-5-76--Stewart, J.	
03-17-76	Filed deft. Robert E. McClay answers to interrog.	
03-19-76	Filed deft. Ward answer to interrog.	
04-13-76	Filed pltf. exhibit A. and notice of motion for an leave to file amended complaint and to add party deft. ret. 4-22-76	
04-12-76	Filed pltf. memorandum in support of above motion to amend complaint and to add party deft.	
04-21-76	Filed defts memorandum of law in opposition to pliffs motion to file an amended complaint	
04-21-76	Filed pliffs Reply memorandum of law in support of motion for leave to file an amended complaint	
04-23-76	Filed pliffs notice of taking deposition of Eastern NY Correctional Facility on 5-14-76 Joseph, W. Parrin, George Barthel P. E. Blades and P. E. Graco -- issued subp. (3)	
05-03-76	<i>P/17/2e. Sells.</i> Filed ORDER that Paul Bianco, Thomas Desiervo, Fred Manfredonia, Robert Sparanese or any of them, be authorized to make service of the summons and amended complaint upon deft. P. Preiser-Clerk	
05-03-76	Filed pltf. Amended Complaint	
05-05-76	Filed additional summons by Fred A. Manfredonia of service of summons and complaint served upon Peter Preiser on 5-3-76	
05-11-76	Filed ANSWER of defts to the second amended complaint	
05-13-76	Filed pliffs affidavit for writ of habeas corpus writ iss. ret. 5-26-76	
05-18-76	Filed ANSWER of deft Preiser's to the second amended complaint	
05-18-76	Filed plaintiff's pre-trial memorandum	
05-18-76	Filed affidavit of service by Frances A. Warshaw of pltf pre-trial memorandum served upon Ralph Lewis Mc Murray Ass. Atty. Gen. of NYC on 5-18-76	
05-19-76	Filed defts. Pre-trial memorandum of law	
05-24-76	Pre-trial conference held. STEWART, J.	
05-24-76	Filed affidavit of service by Robert Sparanese that on 5-19-76 that he served subp. upon J.W. Parrin, George Barthel and Lt. Damskie.	
05-24-76	The Court dismissed the COMPLAINTS against Moore, Lee and Brown. non-bay trial begun.	
05-25-76	Trial cont'd. Deft's motion to dismiss as to deft. Ward -- GRANTED. STEWART, J.	
05-26-76	Trial cont'd. and concluded. Dec. REs. STEWART, J.	
05-27-76	Filed ORDER that Pro-Se pliffs Sandy Moore, Ralph Lee and William Brown have been released from incarceration. Their original original complaint sought injunctive relief, their requested relief has now been mooted by subsequent events. We dismiss their complaint as moot. The amended complaint of pliffs Khalish McKinnon, Laurence Minoy, and David Wheeler, which concerns the same events as that of the pro-se pliffs, but which seeks monetary damages as well as injunctive relief, remains extant and is in no way affected by our dismissal of the pro se action. So Ordered--Stewart, J. by process (MEMORANDUM OPINION)	
05-29-76	Filed writ of habeas corpus ad testificandum as to Khalish McKinnon W/Atty.	
05-29-76	Filed writ of habeas corpus ad testificandum as to Laurence M. Minoy W/Atty.	



DATE	PROCEEDINGS	Date Of Judgment
6-15-76	Filed pliffs. post trial memorandum with exhibits attached)	
6-18-76	Filed defts. post trial brief.	
6-15-76	Filed defts. ANSWERS to 3rd amended complaint.	
7-1-76	Filed defts. supplemental memorandum of law.	
07-02-76	Filed affdvt. of service of motion papers of 3rd-pty defts with supporting affdvts and exhibits served upon Richard Feinman 295 Madison Ave. NYC, Susan Workman Kaplan at 195 Adams St. Bklyn, NY on 7-1-76 by Charles Goldman	
07-02-76	Filed plaintiffs supplemental post memorandum	
07-19-76	Filed transcript of record of proceeding dated May 24, 25, 26, 1976	
09-15-76	Filed OPINION # 15094. Pliffs brought this civil rights action to redress alleged alleged deprivations of their constitutional rights. We therefore grant pliffs declaratory relief under their first cause of action and hold 1) Pliffs have requested that the disciplinary action be expunged. We decline to do so. Now we turn to the question of a monetary award. we believe it would be inappropriate to assess damages against defts, while the activities of the ad hoc panel which interviewed some inmates and released them from knaplock cannot be characterized as a good faith attempt to comply with legal requirements. pliffs have not been damaged by these actions. Thus, we decline to assess monetary damages against defts. No costs to either party.—Stewart, J.	
10-12-76	Filed FINAL JUDGMENT and ORDER that pliffs herein referenced second, third, fourth and fifth claims for relief are denied, plf. first claim for relief is granted, pliffs prayer for equitable and monetary relief is denied and that parties shall bear their own costs.—Stewart, J. Judgment entered on 10-12-76—Clerk n/n	
11-04-76	Filed defts affdvt. and notice of motion for a stay pending appeal ret. 11-11-76	
11-10-76	Filed defts notice of appeal to the U.S.C.A to the Second Circuit from judgment entered 10-12-76. Mailed copies to Richard Ruchs and Gage Andretta	
11-10-76	Filed pliffs memorandum in opposition to defts motion for stay pending appeal	
11-19-76	Filed MEMORANDUM defts moved for a stay pending appeal. In light of this, we conclude that a stay of our order would not be appropriate, and, accordingly, we deny the motion.—Stewart, J. n/a	
12-03-76	Filed pliffs notice of cross appeal from the final order entered on 10-12-76	
12-14-76	Filed notice of original record on appeal has been certified and transmitted to the U.S.C.A. for the Second Circuit on 12-14-76	



UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK

----- x  
KHALIEB McKINNON, LAURENCE MINCY,  
DAVID WHEELER,

Plaintiffs,

-against-

J.W. PATTERSON, JOSEPH W. PERRIN and  
ROBERT E. McCLAY, individually and  
in their capacities as Deputy  
Superintendents of Eastern New York  
Correctional Facility and Attica  
Correctional Facility, respectively,  
BENJAMIN WARD, in his capacity as  
New York Commissioner of Corrections,  
PETER PREISER,

Defendants.  
----- x

73 Civ. 3998 (CES)

THIRD AMENDED  
COMPLAINT

Plaintiffs, by their attorneys, for their amended  
complaint allege as follows:

JURISDICTION

1. This action arises under the Constitution of the  
United States of America, including, without limitation, the  
First and Fourteenth Amendments thereto, and 42 U.S.C. Sections  
1983 and 1985. Subject matter jurisdiction is conferred upon  
this Court by 28 U.S.C. Section 1343.

THE PARTIES

2. Plaintiff Khalieb McKinnon is currently an inmate  
(No. 20991) at the Green Haven Correctional Facility, Stormville,  
New York, a maximum-security prison. At certain times herein-  
after mentioned, plaintiff McKinnon was incarcerated at the  
Eastern New York Correctional Facility at Napanoch, New York,  
a medium-security prison ("Eastern").



3. Plaintiff Laurence Mincy is currently an inmate at Wallkill Correctional Facility in Ulster County, New York, a medium-security prison. At certain times hereinafter mentioned, plaintiff Mincy was incarcerated at Eastern.

4. Plaintiff David Wheeler is currently on parole. At certain times hereinafter mentioned, plaintiff Wheeler was an inmate at Eastern.

6. Defendant Benjamin Ward is presently New York Commissioner of Corrections. Defendant Ward is being sued in his official capacity as New York Commissioner of Corrections.

7. Defendant Peter Preiser was New York Commissioner of Corrections in June of 1973. Defendant Preiser is being sued in his individual capacity.

8. At certain times hereinafter mentioned, defendant J.W. Patterson was the Superintendent of Eastern. Defendant Patterson is being sued in his individual capacity.

9. At certain times hereinafter mentioned, defendants Joseph W. Perrin and Robert E. McClay were Deputy Superintendents of Eastern. Upon information and belief, defendant Perrin is still serving in this capacity and Defendant McClay is currently Deputy Superintendent of Attica Correctional Facility in Attica, New York ("Attica"). Defendants Perrin and McClay are being sued in their individual capacities and in their official capacities as Deputy Superintendents of Eastern and Attica, respectively.

#### STATE ACTION

10. The activities hereinafter described were undertaken and effected by all defendants, singly and in concert with each other, in such a fashion as to cause them to be under color of state statute, ordinance or regulation within the meaning of 42 U.S.C. Section 1983.



### FACTS

11. In June of 1973, plaintiffs were inmates at Eastern, and were all assigned to work and were in fact working in the prison laundry.

12. Some time in the morning of a work day early in June of 1973, a dispute arose between the inmates working in the laundry and certain Correctional Officers concerning whether inmates were permitted to launder personal items of clothing.

13. The inmates requested that the prison administration resolve this dispute. Work was stopped pending such resolution.

14. Some time later that same morning, the inmates were assured by representatives of defendants that the prison administration would resolve the dispute.

15. At approximately mid-day, the inmates, following the correctional facility routine, returned to their cells. Shortly thereafter the inmates were informed by representatives of defendants that they would be kept in their cells because of their behavior in the laundry that morning.

16. The inmates were locked in their cells ("keep-lock") for a substantial period of time. During this period, the inmates involved, including plaintiffs, were "interviewed" by prison authorities under the direct supervision of defendants. At no time were they charged by defendants or their agents with any wrongdoing or afforded a hearing to determine whether they had violated any prison regulations.

17. Shortly after the incident in the laundry room, defendant Preiser, at the recommendation of defendants Patterson, Perrin and McClay, transferred plaintiff McKinnon to Attica, a maximum-security prison; plaintiff Wheeler to Great Meadows



Correctional Facility in Comstock, New York ("Great Meadows"), also a maximum-security prison; and plaintiff Mincy to Clinton Correctional Facility at Dannemora in Clinton County, New York ("Clinton"), also a maximum-security facility. At no time did defendants give plaintiffs prior notice of the transfers or any explanation of the reasons for the transfers.

18. No hearing, notice of charges, or right to confront witnesses was ever afforded plaintiffs by defendants.

19. While plaintiffs were keep-locked in their cells as a result of the incident in the laundry room described herein, they swore to the Complaint in this action. Shortly thereafter, defendants caused plaintiffs to be transferred to the maximum-security prisons described herein.

#### FIRST CLAIM FOR RELIEF

20. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 to 19 above with the same force and effect as if more fully set forth herein.

21. Plaintiffs are, at all times hereinafter mentioned, entitled to the rights granted by the First and Fourteenth Amendments to the Constitution of the United States.

22. Immediately after the incidents described in the laundry room, plaintiffs were keep-locked in their cells at the instigation of defendants Patterson, Perrin and McClay. Plaintiffs were never afforded an adequate hearing by defendants Patterson, Perrin or McClay either prior to or during the imposition of this sanction.

23. As a result of the keep-lock restraint, plaintiffs suffered substantial deprivations. Plaintiffs were denied normal recreation for a substantial period, were precluded from working at their assigned tasks in the laundry and thereby earn-



ing pay for that period, and were denied normal communication with the rest of the inmate population.

24. In addition to the above-described deprivations, plaintiffs may have lost "good-time" credits previously earned and may have suffered other deprivations due to the existence in their prison records of their alleged misbehavior and keep-lock punishment.

25. Defendants' actions in keep-locking plaintiffs without affording plaintiffs adequate notice of the charges and a hearing into the basis for the keep-lock constituted a denial of plaintiffs' rights to due process under the Fourteenth Amendment to the Constitution of the United States and an arbitrary, wanton and reckless disregard of plaintiffs' due process rights.

#### SECOND CLAIM FOR RELIEF

26. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 to 25 above with the same force and effect as if more fully set forth herein.

27. Defendants caused plaintiffs to be keep-locked in their cells and then transferred to the maximum-security prisons described herein because of plaintiffs' exercise of their First and Fourteenth Amendment rights peaceably to express legitimate grievances.

28. These actions of defendants were willfully designed to, had the effect of and continue to have the effect of deterring and preventing plaintiffs from the free exercise of their rights of speech, petition, assembly and association under the First and Fourteenth Amendments to the Constitution of the United States and directly interfered with and continue to interfere with the exercise of those rights.



### THIRD CLAIM FOR RELIEF

29. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 to 28 above with the same force and effect as if more fully set forth herein.

30. While plaintiffs were keep-locked, they instituted this action. Soon thereafter, they were transferred by defendant Preiser at the recommendation of defendants Patterson, Perrin and McClay from Eastern to the maximum-security prisons described herein.

31. The action of defendants in causing plaintiffs to be transferred was taken in retribution for plaintiffs' institution of this suit and was willfully designed to, had the effect of and continues to have the effect of deterring and preventing plaintiffs from the free exercise of their right to access to the Courts under the Fourteenth Amendment to the Constitution of the United States and directly interfered with and continues to interfere with the exercise of that right.

### FOURTH CLAIM FOR RELIEF

32. Plaintiffs repeat and reallege the allegations contained in paragraphs 1 to 31 above with the same force and effect as if more fully set forth herein.

33. Defendants' acts in causing plaintiffs to be transferred from Eastern, a medium-security prison, to Attica and Great Meadows, maximum-security prisons, have resulted and continue to result in substantial deprivation to plaintiffs.

34. Plaintiffs suffered upheavals in their living conditions as well as the loss of valuable privileges. Plaintiff McKinnon was caused severe mental distress by his transfer to the same cell block in Attica where he had been incarcerated during the riots at that institution in 1971. Further, plaintiffs'



relocation to other facilities necessitated a reorientation to different prison routines, including different mailing and visitation procedures, as well as to different inmates. The transfers for all plaintiffs meant incarceration in locations even more distant from their relatives and friends, making contact with their families and friends more difficult and less frequent.

35. Further, the transfers have resulted in the loss of some of the benefits afforded by Eastern, such as more privacy, better recreational facilities, and greater social and educational services.

36. Plaintiffs were denied their rights of due process of law granted to them by the Fourteenth Amendment to the Constitution of the United States because upon information and belief defendants alone and in concert deprived plaintiffs of an adequate hearing prior to their transfer. Defendants' actions constituted an arbitrary and reckless disregard of plaintiffs' due process rights and were designed to punish plaintiffs.

#### FIFTH CLAIM FOR RELIEF

37. Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1 to 36 above with the same force and effect as if more fully set forth herein.

38. All the inmates working in the prison laundry during the period described in this amended complaint were Black or Hispanic. All the plaintiffs are Black.

39. Peaceable expression of grievances, when engaged in by white prisoners, had not previously led to the keep-locking and transfer of white inmates involved in such activities.

40. The inmates in the prison laundry, including the plaintiffs, were deliberately and intentionally treated more harshly by defendants than white inmates in the prison had been



treated and would have been treated by defendants in similar circumstances solely because of the plaintiffs' race.

41. As a direct result of defendants' above-described discriminatory treatment, plaintiffs were keep-locked for approximately two weeks and then transferred to prison facilities which are more restrictive than Eastern.

42. The defendants alone or in concert acted to deny plaintiffs their right to equal protection of the law granted to them by the Fourteenth Amendment to the Constitution of the United States because of this unequal and discriminatory treatment.

#### STANDARDS FOR INJUNCTIVE RELIEF

43. Plaintiffs repeat and reallege each and every allegation contained in paragraphs 1 to 42 above with the same force and effect as if more fully set forth herein.

44. Plaintiffs have suffered, are suffering, and will continue to suffer severe and irreparable injury by virtue of defendants' acts, practices and policies as set forth in the above five causes of action.

45. Their fundamental constitutional rights have been violated. Plaintiffs have no plain, adequate, or complete remedy at law to redress these violations of their Constitutional rights, and the issuance of an injunction is their only means of securing complete and adequate relief. No other remedy would offer plaintiffs substantial and complete protection from continuation of defendants' unlawful and unconstitutional acts, practices, and policies.

#### PRAYER

WHEREFORE, plaintiffs respectfully request the following relief:

a. An order mandating the return of plaintiff McKinnon to Eastern.

b. A permanent injunction restraining the defendants, their agents and employees from:



(1) interfering in any manner with plaintiffs' First and Fourteenth Amendment rights lawfully to present grievances to the prison administration and to have access to the Courts;

(2) subjecting plaintiffs to any disciplinary action without providing the procedural safeguards mandated by the due process clause of the Fourteenth Amendment to the Constitution of the United States; and

(3) subjecting plaintiffs to discriminatory treatment based on their race.

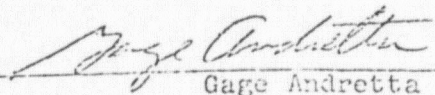
c. That plaintiffs receive from defendants J.W. Patterson, Joseph W. Perrin, Robert E. McClay and Peter Preiser compensatory and punitive damages in an amount yet to be ascertained.

d. Expedited docket treatment to bring this case to trial at the earliest possible time.

e. Such other and further relief as this Court may deem appropriate, including costs and reasonable attorneys' fees.

Dated: New York, New York  
May 28, 1976

RICHARD A. FUCHS  
NEAL R. STOLL  
GAGE ANDRETTA

By   
Gage Andretta

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and David Wheeler  
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- x

KHALIEB McKINNON, LAURENCE MINCY, :  
DAVID WHEELER, :

Plaintiffs, :

-against- :

73 Civ. 3998

J. W. PATTERSON, JOSEPH W. PERRIN :  
and ROBERT E. McCLAY, individually :  
and in their capacities as Deputy :  
Superintendents of Eastern New York :  
Correctional Facility and Attica :  
Correctional Facility, respectively, :  
BENJAMIN WARD, in his capacity as :  
New York Commissioner of Corrections, :  
PETER PREISER, :

Defendants. :

----- x

A P P E A R A N C E S:

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Attorney General of the State of New York

RALPH McMURRY  
Assistant Attorney General

Two World Trade Center  
New York, New York 10047  
Attorneys for Defendants.



O P I N I O N

STEWART, DISTRICT JUDGE:

Plaintiffs, Khalieb McKinnon, Laurence Mincy, and David Wheeler, have brought this civil rights action pursuant to 42 U.S.C. § 1983 to redress alleged deprivations of their constitutional rights.<sup>1/</sup> Named as defendants are J. W. Patterson, who was the Superintendent of Eastern Correctional Facility in June of 1973 ("Eastern"), Joseph Perrin and Robert E. McClay, who, in June of 1973, were Deputy Superintendents at Eastern of Security and of Program Services respectively, Peter Preiser, then Commissioner of New York State's Department of Corrections, and Benjamin Ward, present Commissioner of New York State's Department of Corrections. Plaintiffs claim defendants violated their Fourteenth Amendment rights by imposing substantial deprivations upon plaintiffs without providing adequate procedural safeguards.

In June of 1973, the plaintiffs were incarcerated at Eastern, a "medium" security institution. 7 New York Code of Rules and Regulations ("N.Y.C.R.R.") § 100.55(b).<sup>2/</sup> All were

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<sup>1/</sup> Plaintiffs, who initially brought this action pro se, were represented at trial by Cage Andretta, Esq., and Richard Fuchs, Esq. The court thanks and commends Messrs. Andretta and Fuchs for providing competent and distinguished representation.

<sup>2/</sup> Unless otherwise indicated, all citations to Title 7 of N.Y.C.R.R. refer to the regulations in effect in 1973.



assigned to work in Eastern's laundry room. On June 5, 1973, a dispute arose between plaintiffs and defendants; plaintiffs claim that defendants altered the laundry room rules by abruptly prohibiting them from doing personal laundry. [Trial Transcript, <sup>3/</sup> pp. 14-16]. Defendants testified that plaintiffs had attempted to use the laundry to do other inmates' laundry in return for compensation ("contract work"), a clear violation of prison rules. [Tr. pp. 162-165, Plaintiffs' Ex. 55 ("Inmate Rulebook", p. 4), Defendants' Ex. H ("Rules and Regulations at Eastern, Rule 18), and Ex. G]. All parties agree that a dispute occurred and that, subsequent to the dispute, the plaintiffs were confined to their cells ("keeplocked"). Correction officers filed "misbehavior" reports about plaintiffs and, some 15-20 days after the laundry incident occurred, plaintiffs were transferred from Eastern to other facilities. Mincy was sent to Clinton Correctional Facility ("Clinton"); McKinnon was transferred to Attica Correctional Facility ("Attica"), and Wheeler was sent to Great Meadows Correctional Facility ("Great Meadows"). Each of these institutions is classified as a "maximum" security facility. 7 N.Y.C.R.R. §§ 100.5, 100.15, and 100.40.

Plaintiffs claim that the transfers were punitive measures which were imposed as a result of the laundry room

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3/ Hereafter, references to the trial transcript will be indicated by use of the abbreviation "Tr."



incident. Plaintiffs argue that their keeplock and transfers worked substantial deprivations and that they were entitled to but did not receive adequate notice of or impartial hearings on the charges against them prior to imposition of the punishments. See Sostre v. McGinnis, 442 F.2d 178 (2d Cir. 1971), cert. denied, 404 U.S. 1049 (1972). See also Newkirk v. Butler, 499 F.2d 1214 (2d Cir. 1974), vacated as moot, 422 U.S. 395 (1975). Specifically, plaintiffs seek a declaration that 1) the "adjustment committee procedure," an administrative hearing conducted by defendants, did not comply with New York law or with the constitutionally mandated requirements of Sostre v. McGinnis, supra; 2) the sanction of being keeplocked for some 15 days constituted a "substantial deprivation" within the prison setting and thus, before its imposition or immediately upon imposition, a fair and adequate hearing was and is required, and 3) defendants had personal knowledge of, or should have known of these constitutional defects and are thus to be held personally liable for plaintiffs' injury. Plaintiffs also request that this court 1) interpret New York State's regulations to require that, prior to a prisoner's transfer for misbehavior, a "superintendent's proceeding" [7 N.Y.C.R.R. § 253 et seq.] be held; 2) require that, before prisoners are transferred to a more restrictive institutional setting, a fair hearing be held; 3) remove transfer recommendations from the list of permissible actions which the adjustment committee may recommend;



4) require 24-hour notice of charges and hearings whenever an inmate is to be keeplocked for more than 3 days; 5) require that no adjustment committee member may participate in a hearing which deals with an incident in which that member had any involvement, and 6) order that plaintiffs' records be expunged so that any notations about the laundry room dispute and discipline related to it be deleted.

In addition to the equitable relief outlined above, plaintiffs seek monetary compensation for the constitutional deprivations, their lost wages, and their mental anguish.

Subsequent to the trial of this action on May 24-26, 1976, the Supreme Court issued its opinions in two cases which involve the rights of state prisoners to be given notice and hearings prior to the transfer from one prison institution to another. See Montanye v. Haymes, 44 U.S. L.W. 5051 (June 25, 1976) and Meachum v. Fano, 44 U.S.L.W. 5053 (June 25, 1976). Justice White, writing for the majority, held that the Due Process Clause of the Fourteenth Amendment does not, in itself, require hearings in connection with transfers from one institution to another "whether or not [the transfers] are the result of the inmate's misbehavior or may be labeled as disciplinary or punitive." Montanye v. Haymes, supra at 5053. The Court determined that a prisoner, seeking procedural protections for prison transfers, must look first to state law;



the Due Process Clause only guaranteed that, once a right was established under state law, it would not be "arbitrarily abrogated." Meachum v. Fano, supra at 5057, (citations omitted). Interpreting New York State's prison regulations in Montanye v. Haymes, Justice White concluded that, under New York law [N.Y. Corr. Law § 23(1)], a prisoner did not have a right to remain in any particular facility and had "no justifiable expectation that he would not be transferred unless found guilty of misconduct." Montanye v. Haymes, supra at 5053.

On the bases of the holdings in Montanye v. Haymes and Meachum v. Fano, defendants urge that we enter judgment in their favor. [Supplemental Memorandum of Law, June 30, 1976.] Defendants assert that, under the Supreme Court's interpretation of New York law, no state right and no constitutionally protected interests were infringed upon when plaintiffs were transferred from Eastern. [See Montanye v. Haymes, supra, 5052-5053.] Further, defendants contend that plaintiffs' other claim, relating to the alleged inadequacy of the adjustment committee hearings which were held, is also decided by the Supreme Court's conclusions in the Haymes and Fano cases; defendants argue that, if no federally protected remedy exists to insulate inmates from the deprivations suffered when transferred, the "minor deprivations" [Supplemental Memorandum at p. 4] imposed by the adjustment committee cannot be federally



protected, and thus, no due process requirements can be constitutionally mandated.

Plaintiffs submit that Haymes and Fano announced new rules of law, not foreshadowed by earlier holdings, and that these rulings should not be given retroactive application. See Chevron Oil Co. v. Huson, 404 U.S. 97 (1971). See also Wolff v. McDonnell, 418 U.S. 539 (1974). In support of this argument, plaintiffs note that the events at issue here occurred in 1973, three years prior to the Haymes and Fano decisions; thus, the standards set forth in Sostre v. McGinnis, supra, should govern the adjudication of this action. Plaintiffs direct the court's attention to several written documents of defendants and of New York State which indicate that defendants, as well as plaintiffs, believed that the Sostre v. McGinnis ruling was applicable to these events. First, plaintiffs cite the brief submitted by New York State, in its appeal in Newkirk v. Butler, supra. New York stated that its rules required hearings prior to disciplinary punishment; when prisoners were transferred for reasons of misconduct,

"...the inmate must, before or shortly after such transfer, be given notice of the gravamen of the misconduct and an opportunity to be heard in relation thereto." [Plaintiffs' Supplemental Post-trial Memorandum at p. 3.]

Second, in this action, defendants have consistently maintained that no hearings were required because plaintiffs were not



transferred for punitive reasons but for "management" and "administrative" purposes. Thus, defendants have argued that "the applicable law at the time for disciplinary proceedings . . . Sostre v. McGinnis" [Defendants' Post-trial Brief at p. 26] did not require hearings here.

Justice Burger discussed the question of retroactive application of a constitutionally mandated decision in Lemon v. Kurtzman, 411 U.S. 192, 197-201 (1973) ("Lemon II").

"The process of reconciling the constitutional interests reflected in a new rule of law with reliance interests founded upon the old is 'among the most difficult. . . .' [T]he effect of a given constitutional ruling on prior conduct is subject to no set 'principle of absolute retroactive invalidity' but depends upon a consideration of 'particular relations. . . and particular. . . conduct. . . of rights claimed to have become vested. . . ; and of public policy' . . ." Lemon II, supra at 198-199. (citations omitted).

See also Gosa v. Mayden, 413 U.S. 665, 673 (1973), Chevron Oil v. Huson, supra, and Dematteis v. Eastman Kodak Co., 520 F.2d 409 (2d Cir. 1975). While these cases do not discuss the precise question here, which is to determine whether holdings which limit a federal constitutional remedy should be applied retroactively, the opinions set forth the relevant considerations to guide us.

The preliminary question is whether a ruling of the Supreme Court "establish[es] a new principle of law, either by overruling clear past precedent on which litigants may have



relied. . . or by deciding an issue of first impression whose resolution was not clearly foreshadowed. . . ." Chevron Oil v. Huson, supra at 106 (citations omitted).<sup>4/</sup> We agree with plaintiffs that the pronouncements of the Supreme Court in Haymes and Fano are "new" and do overrule the precedents developed in the lower courts of this circuit which had determined that the Due Process Clause, in itself, applied to all situations in which a state prison authority imposed punitive sanctions; thus, before a disciplinary transfer, the state had to afford the person to be punished an opportunity to be heard.<sup>5/</sup>

Having determined that the rulings are new, we turn to the other factors which are relevant to the question of .

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<sup>4/</sup> "In this regard, it is not necessary that the ruling overturn Supreme Court precedent for 'only a small number of the appealed federal cases are even reviewed by the Supreme Court'." United States v. Bowen, 500 F.2d 960, 976 (9th Cir. 1974) (citations omitted), aff'd. 422 U.S. 916 (1975).

<sup>5/</sup> See, e.g., United States ex rel. Haymes v. Montanye, 505 F.2d 977, 980 (2d Cir. 1974) [rev'd, Montanye v. Haymes, 44 U.S.L.W. 5051], holding that "[w]hen harsh treatment is meted out to reprimand, deter, or reform an individual, elementary fairness demands that the one punished be given a satisfactory opportunity to establish that he is not deserving of such handling," and Newkirk v. Butler, 499 F.2d 1214, 1218 (2d Cir. 1974), vacated as moot, 422 U.S. 395 (1975), holding that ". . . a substantial deprivation of benefits and privileges within the prison walls itself entitles a prisoner to some form of due process. . . .".



retroactive application. We are directed to look to the purpose of the new rule in order to decide whether retrospective operation "will further or retard its operation." Lemon II, supra, at 199 (citations omitted). The purpose of the new holdings is, we believe, to direct federal courts to refrain from overseeing state prison administrative decisions, where federal constitutional rights are not at issue.<sup>6/</sup> The Supreme Court expressly declined to place the Due Process Clause

"astride the day-to-day functioning of state prisons and involve the judiciary in issues and discretionary decisions that are not the business of federal judges." Meachum v. Fano, supra at 5053.

Thus, we believe that, if we were to decline to apply the rulings retroactively, we would be retarding their operation.

Another consideration in retroactivity is the degree of reliance the parties have placed upon the old rule. Here, we are confronted with a situation distinct from most in which courts have considered the problem of retroactive application.<sup>7/</sup>

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<sup>6/</sup> Where a "fundamental constitutional guarantee" is involved, "federal courts will discharge their duty to protect constitutional rights." Procunier v. Martinez, 416 U.S. 396, 405-406 (1974).

<sup>7/</sup> Compare Lemon II, in which the parties had acted pursuant to a state statute later declared to be unconstitutional. See also City of Phoenix v. Kolodziejski, 399 U.S. 204 (1970), in which the Court had to determine whether to invalidate an election which was held under laws later held to be discriminatory, and Linkletter v. Walker, 381 U.S. 618 (1965), in which the Court declined to apply the exclusionary rule announced in Mapp v. Ohio, 367 U.S. 643 (1961) to convictions which had become final before its rendition.



While both sides relied upon the earlier holdings, defendants believed that their actions were proper under Sostre v. McGinnis and that they were not required to provide hearings before transferring prisoners because such transfers did not work "substantial deprivations." Plaintiffs rely upon the prior case law to obtain redress for past actions taken against them; plaintiffs do not allege that their own actions were authorized by the prior law.

In light of the fact that the purpose of the Haymes and Fano rulings would be impeded if not applied retroactively, we believe that we must apply those rulings to the events at issue in this lawsuit. Thus, we conclude that, as the Supreme Court has construed New York law to establish no expectation of a right to remain in a particular institution, plaintiffs have not suffered a Fourteenth Amendment deprivation because they were transferred from one institution to another without having first had an opportunity to be heard. Plaintiffs' fourth claim for relief against the defendants is dismissed.

We turn now to plaintiffs' other causes of actions. Plaintiffs' second claim for relief asserts that the transfers had and have the effect of "detering and preventing plaintiffs from the free exercise of their rights of speech, petition, assembly and association under the First and Fourteenth Amendments." [Third Amended Complaint, ¶ 28.] As a third claim for relief, plaintiffs allege that the transfers occurred "in



retribution for plaintiffs' institution of this suit."

[Third Amended Complaint, ¶ 31] which they had begun after having been confined to their cells but before the transfers occurred. [Tr. pp. 41-47, 82-87, 133-134, Plaintiffs' Ex. 1, Defendants' Ex. A.]

Justice Steven's dissenting opinion in Montanye v. Haymes, supra, 44 U.S.L.W. at 5053, interprets the majority holding as not precluding such claims, which allege that transfers are made "in retribution for the exercise of protected rights." Thus, we do not dismiss plaintiffs' second and third claims but turn to a review of the evidence to determine if plaintiffs have shown that defendants were motivated to transfer plaintiffs as retribution for plaintiffs' exercise of First and Fourteenth Amendment rights.

Both plaintiffs and defendants agree that the initial event which sparked the controversy was the dispute in the laundry room. [Tr. pp. 11, 128, 152, 315.] Further, both sides concur that the dispute arose when plaintiffs and defendants disagreed about prison policy and rules relating to inmates washing their own and other inmates' personal laundry. [Tr. pp. 20, 140, 354-355.] Credible testimony also establishes that, because of the disagreement over prison rules, the inmates did not do their assigned work in the laundry on June 5, 1973. [Tr. pp. 19, 68, 89, 163, 308.]



Inmates do not have a constitutionally protected right to perform any particular kind of work in state institutions or to protest prison regulations by a work stoppage. See Paka v. Manson, 387 F. Supp. 111 (D. Conn. 1974). Thus, because we find on the basis of credible evidence that the plaintiffs were transferred primarily because of their participation in the laundry room incident [Tr. pp. 27, 232, Plaintiffs' Ex. 13, 15, 20], we decline to hold that the transfers were motivated by defendants' desire to punish plaintiffs for exercising constitutionally protected rights. We reach this conclusion despite the fact that plaintiffs have alleged that they were denied their constitutionally protected right of access to the courts. See Procunier v. Martinez, 416 U.S. 396, 419 (1974) and Butler v. Preiser, 380 F. Supp. 612, 620 (S.D.N.Y. 1974). Plaintiffs claim that, before they were transferred from Eastern, they had drafted a complaint seeking to enjoin the transfer [Tr. p. 85, Plaintiffs' Ex. 1, Defendants' Ex. A]; that action became moot when the transfers occurred. Second, plaintiffs allege that, after they were transferred, they were unable to confer with each other and thus the prosecution of this action was delayed. [Tr. p. 87.] However, both of these claims relate to the effect of the transfer and not to defendants' motivation for ordering the transfers. As plaintiffs have not shown that the transfers were



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prompted by defendants' desire to deter plaintiffs from bringing claims to court, plaintiffs' second and third claims for relief are dismissed.<sup>8/</sup>

Finally, we come to plaintiffs' first cause of action, which seeks redress for the allegedly inadequate hearing procedures which were provided by defendants prior to the imposition of keeplock. [Third Amended Complaint, ¶¶ 22-25.]<sup>9/</sup> This cause of action is not precluded by the Supreme Court decisions in Montanye v. Haymes and Meachum v. Fano because New York State law provides that certain procedures be followed when an inmate is subjected to confinement in his or her cell. See 7 N.Y.C.R.R. §§ 250-252. Thus, the Due Process Clause applies "to insure that the state-created right is not arbitrarily abrogated." Meachum v. Fano, supra, 44 U.S.L.W. 5057 (citations omitted). Furthermore, under the governing federal law of the time, Sostre v. McGinnis, supra, "substantial deprivations" could not be imposed unless a fair and rational

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8/ Testimony by plaintiffs McKinnon and Mincy that a civilian employed at Eastern as a notary public declined to notarize one of two pro se complaints [Tr. pp. 43-44, 84-87, Plaintiffs' Ex. 2] is insufficient to establish that defendants acted to block plaintiffs from bringing their claims to court.

9/ At the conclusion of the trial, plaintiffs withdrew their fifth claim for relief, which alleges that they (who are all black) were "deliberately and intentionally treated more harshly by defendants than white inmates in the prison had been treated. . . solely because of the plaintiffs' race." [Third Amended Complaint, ¶ 40.]



inquiry were conducted. Thus, as confinement to a cell for fourteen days constitutes a "substantial deprivation,"<sup>10/</sup> we must scrutinize the manner in which the state reached its decision to keeplock plaintiffs. We must determine if the prisoners were confronted with the accusations and the evidence against them and afforded a reasonable opportunity to explain their actions. Sostre v. McGinnis, supra, 442 F.2d at 198.<sup>11/</sup>

To ascertain whether New York officials complied with the procedures set forth in the state's regulations and with due process requirements, we turn to the evidence presented at trial. Based upon the testimony and exhibits, we make the following findings of fact.

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<sup>10/</sup> See United States ex rel. Larkins v. Oswald, 510 F.2d 583 (2d Cir. 1975), Gilliard v. Oswald, #73 Civ. 249 (N.D.N.Y., July 22, 1976), and United States ex rel. Walker v. Mancusi, 338 F. Supp. 311 (W.D.N.Y. 1971), aff'd, 467 F.2d 51 (2d Cir. 1972).

<sup>11/</sup> We do not read Haymes and Fano as precluding inquiry into the hearing afforded before disciplinary sanctions involving deprivations of liberty are imposed. We note that Haymes and Fano did not overrule the Supreme Court's recent decisions concerning prison disciplinary hearings [See, e.g., Baxter v. Palmigiano, 44 U.S.L.W. 4487 (April 20, 1976) and Wolff v. McDonnell, 418 U.S. 539 (1974)] but dealt instead with the question of hearings prior to transfer from one prison facility to another. Justice White evaluated the transfer question in a context where no constitutional guarantee established that a state must provide alternative prison settings and where no state law entitled inmates to expect assignment to any particular facility.



1. The dispute in the laundry on June 5, 1973, at Eastern was an unusual event in that institution's history. [Tr. pp. 289-293.]

2. After the inmates who had been presented in the laundry room during the dispute returned from lunch, they were confined to their cells. [Tr. pp. 23, 69-71, 129, 310.]

3. Misbehavior reports were written about all the inmates who were present in the laundry. [Tr. p. 153, Plaintiffs' Ex. 38-54.]

4. Within a day of the incident, three prison personnel, correction officer George Barthel, Lieutenant Demskie, and civilian employee Edward Hartley, interviewed approximately one-third of the inmates who had been keeplocked. After the interviews, these inmates were released from keep-lock. The misbehavior reports written about them were apparently withdrawn. [Tr. pp. 155-158, 166, 175, 187-188, 266-267, 376.]

5. In addition to the individual misbehavior reports filed, the employees who witnessed the incident in the laundry room filed reports describing the events. [Tr. pp. 243-244, Defendants' Ex. C, E] One of these reports was filed several weeks after the incident occurred. [Tr. p. 359, Defendants' Ex. F.]

6. Lawrence Mincey was interviewed by the adjustment committee on June 7, 1973. After a brief discussion, Mincey



was told that he would be confined to his cell for seven days, would be interviewed again at the end of that time, and that the committee intended to recommend a change in his job assignment. [Tr. pp. 26-29, Plaintiffs' Ex. 30.]

7. Mincy was not interviewed again by the adjustment committee before he was transferred from Eastern on June 20, 1973. [Tr. p. 29.]

8. On June 7, 1973, Khalieb McKinnon appeared before the adjustment committee. He was shown a copy of the charges relating to the laundry room dispute; after he spoke briefly about his involvement, the committee told him that they would recommend he be kept in keeplock for seven days, his job assignment changed, and he be returned for another interview. [Tr. pp. 72-82, 88, Plaintiffs' Ex. 28.]

9. McKinnon was not interviewed again by the adjustment committee. [Tr. p. 88.]

10. David Wheeler met with the adjustment committee on approximately June 7, 1973. After a brief exchange, Wheeler was told he was to be confined to his cell for seven days and would then be returned to the adjustment committee for further interviewing. [Tr. pp. 129-131, Plaintiffs' Ex. 35.]

11. Wheeler was not interviewed again by the adjustment committee. [Tr. pp. 130, 212.]



12. The plaintiffs did not have the opportunity of bringing other persons to speak to the adjustment committee to substantiate the plaintiffs' description of the causes of the laundry dispute. [Tr. pp. 77, 131, 264.]

13. None of the plaintiffs were informed that they could request that the superintendent review the recommendations of the adjustment committee. [Tr. pp. 29, 77, 131.]

14. The evidence does not establish that the adjustment committee was directly responsible for the transfers or that it did recommend changes in programs for the plaintiffs.<sup>12/</sup>

15. When keeplocked, McKinnon, Mincy, and Wheeler were confined to their cells. They had the use of their personal property [Tr. pp. 98, 138, 250.] They had very limited access to showers and physical activity. [Tr. pp. 79, 108, 137.] They could not participate in the normal

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<sup>12/</sup> We note that the "classification committee evaluations" of plaintiffs, which recommended transfer to maximum security facilities, mention the plaintiffs' participation in the laundry room incident as indicative of their poor adjustment to a medium security facility. [Plaintiffs' Ex. 14, 15, 20.] However, the evidence does not establish that it was the adjustment committee which conveyed this information to the classification committee either directly or through the program committee. Further, there is no evidence that the transfers occurred in a manner which violated state law.



routine of the prison, work at their assigned jobs, receive wages for such work, or take part in educational offerings. [Tr. pp. 32, 91, 131, 138.] They spent from 23 to 24 hours per day in their cells. They were denied contact with other inmates during their confinement.

New York State requires that

"[a]ll control of inmates' activities, including disciplinary action, must be administered in a completely fair, impersonal and impartial manner and must be as consistent as possible (given the need for individualized decisions)." 7 N.Y.C.R.R. § 250.2(d).

Further,

"[d]isciplinary action must never be arbitrary or capricious, or administered for the purpose of retaliation or revenge." 7 N.Y.C.R.R. § 250.2(e).

We find that the manner in which defendants handled the disciplinary problem which arose in June of 1973 at Eastern complied in many but not all respects with New York State regulations.

New York empowers correction officers who reasonably believe that there is an imminent threat to the security of an institution or to the safety of inmates to confine inmates to their cells. 7 N.Y.C.R.R. § 251.6(a). Thus, the officers who keeplocked plaintiffs on June 5 were not in violation of New York regulations. We find that they had reasonable grounds to conclude that the unusual events of that morning might provoke further disruption and that locking inmates in their



cells would be proper. The officers were not under any obligation to inform inmates in advance of the keeplock that confinement was planned.

Once an officer confines an inmate, he or she must file a report with the superintendent of the facility. 7 N.Y.C.R.R. § 251.6(d). Here, reports were made, and some were forwarded to the adjustment committee, as required under 7 N.Y.C.R.R. § 252.3(b)(1).

The adjustment committee, which consists of three State employees who are designated by the Superintendent [7 N.Y.C.R.R. § 252.1] is required to review the reports to "ascertain the full and complete facts and circumstances of the incidents of inmate misbehavior." 7 N.Y.C.R.R. § 252.2(a). The committee must determine if the "facts and circumstances are set forth with sufficient clarity. . . to furnish a basic understanding of the matter." 7 N.Y.C.R.R. § 252.4(c). "The committee also shall endeavor to obtain from the inmate as full and complete an explanation of his behavior in the situation as possible." 7 N.Y.C.R.R. § 252.4(e).

Here, as required under the regulations, the adjustment committee interviewed each inmate at its first meeting following the date of the inmate's confinement. <sup>13/</sup>

7 N.Y.C.R.R. § 252.3(f). No specific procedures for the

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<sup>13/</sup> There was no evidence that the adjustment committee had a regular meeting earlier than June 7, 1973.



interview are set forth in the regulations. The committee is given the discretion to determine what information it requires [7 N.Y.C.R.R. § 253.3(d)] and to elicit more information when necessary. Further, under New York law, members of the adjustment committee are chosen by the superintendent; there is no requirement that the members have no prior knowledge or involvement with the misbehavior reports which they review.<sup>14/</sup>

We find that, while the actions of the adjustment committee in interviewing the plaintiffs complied with the New York's regulations, described above, the committee failed to provide the procedural safeguards required under the Constitution. As set forth in Sostre v. McGinnis, supra, when a prisoner is confronted with the potential imposition of a substantial deprivation, certain procedural protections attach. Here, New York State did not give plaintiffs the opportunity to be informed of the charges against them in advance of the hearings or to have the incident reviewed by persons who had no prior involvement with the event.<sup>15/</sup> Thus, the "interview" did not provide the type of hearing required

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<sup>14/</sup> Compare 7 N.Y.C.R.R. § 253.2(d).

<sup>15/</sup> Lieutenant Demskie, who sat on the adjustment committee, was also present outside the laundry room on June 5th and participated in the ad hoc panel's interviews of some inmates.



before the imposition of the punishment which the adjustment committee ordered.

The subsequent actions of the adjustment committee were proper under New York law, and except for our conclusion as to the inadequacy of the hearings prior to the imposition of keeplock, did not violate due process. Under New York regulations, the adjustment committee could recommend to the superintendent that an inmate's program be reappraised, 7 N.Y.C.R.R. § 252.4(b)(7). In making this recommendation or in taking any other action, the committee, which need not make any findings of violation of prison policy, must focus upon "the need for maintaining discipline and order within the facility." 7 N.Y.C.R.R. § 252.5(b). If the committee believes that an inmate's activities must be restricted, it may recommend different sanctions, including confining an inmate to his or her cell for a period not exceeding two weeks, 7 N.Y.C.R.R. § 252.5. After imposition of such restriction, the

"committee may direct that the inmate appear before it at a specified time during the period of the restriction, or at the expiration thereof, . . . Where the committee is of the opinion that . . . a change [in attitude] has not occurred, it may add restrictions. . . ." 7 N.Y.C.R.R. § 252.5(f) (emphasis added).

Thus, despite the fact that plaintiffs were told that they would be returned to the committee in seven days, the failure to do so did not breach a statutory mandate. Further, while



plaintiffs complain that they were not informed of their right to initiate a review of the adjustment committee's actions by means of a written request to the superintendent [7 N.Y.C.R.R. § 270.1(c)], the regulations governing adjustment committee procedures do not require that the committee inform inmates of this option.<sup>16/</sup>

In some respects, however, the administration at Eastern did depart from New York regulations. First, and most importantly, the regulations do not provide for an ad hoc panel of employees selecting some inmates for private interviews and determining to withdraw misbehavior reports. We find that such procedures contradict the "general policies on discipline," which mandate that disciplinary administration be "fair. . . impartial. . . and as consistent as possible. . . ." [7 N.Y.C.R.R. § 250.2(d)]. Similarly, the fact that two inmates were reinterviewed by the adjustment committee [Plaintiffs' Ex. 25, 36] while plaintiffs were not undermines the regulations' philosophy of even-handed action. Finally, the adjustment committee's failure to interview plaintiffs after informing them of scheduled meetings did not comport with the description of committee's role of giving "guidance to the inmate." 7 N.Y.C.R.R. § 252.5(c).

<sup>16/</sup> This regulatory omission, in our view, limits the usefulness of an inmate's right to seek review by the superintendent but does not, in itself, violate due process.



We conclude that, because some inmates were interviewed and released under informal procedures, plaintiffs were deprived of their legal "interest or right" [Meachum v. Fano, supra, 44 U.S.L.W. at 5057] under New York law to have prison discipline applied under established procedural mechanisms. Further, we find that the interviews given by the adjustment committee were constitutionally insufficient. We therefore grant plaintiffs declaratory relief under their first cause of action and hold 1) confining an inmate to his or her cell for two weeks is a substantial deprivation; 2) prior to the imposition of such deprivation, due process requires a fair hearing, and 3) that the procedures accorded to plaintiffs prior to keeplock violated their Fourteenth Amendment rights. Accordingly, we order that, in future adjustment committee proceedings involving keeplock, 1) formal written notification of the charges must be given to the inmate at least 24 hours before the hearing and 2) no one with direct, personal involvement in the incident upon which the complaint against the inmate is based may sit on that case. See Baxter v. Palmigiano, 44 U.S.L.W. 4487 (April 20, 1976), Wolff v. McDonnell, supra, Sostre v. McGinnis, supra. See also Powell v. Ward, 392 F. Supp. 628 (S.D.N.Y. 1975), app. pending.



Plaintiffs have also requested that we order that any reference to the laundry room incident and the subsequent disciplinary action be expunged from their records. We decline to do so because it is undisputed that plaintiffs were present in the laundry room at the time and participated in some manner in that dispute. Second, plaintiffs have not demonstrated that the existence of a record of the laundry dispute has caused them harm or that it will hinder their chances for parole.

We turn now to the question of a monetary award. Plaintiffs argue that the evidence established that defendants failed to act reasonably in light of the existing legal requirements and are therefore liable for damages. See Wood v. Strickland, 420 U.S. 308 (1975) and MukMuk v. Commissioner of Corrections, 529 F.2d 272 (2d Cir. 1976) U.S. app. pending, \_\_\_ U.S. \_\_\_ (1976). Defendants' actions relating to the adjustment committee proceedings do not, in our opinion, demonstrate failure to act reasonably. Those interviews, while not satisfying the standards of Sostre v. McGinnis, supra, did comply with New York regulations in effect at that time; we believe it would be inappropriate to assess damages against defendants for adhering to those procedures. See MukMuk v. Commissioner of Corrections, supra, 529 F.2d at 278. Further, while the activities of the ad hoc panel which interviewed some inmates and released them



from keeplock cannot be characterized as a good faith attempt to comply with legal requirements, plaintiffs have not been damaged by those actions. Thus, we decline to assess monetary damages against defendants. No costs to either party.

SO ORDERED.

United States District Judge

Dated: New York, N.Y.  
September 13, 1976



Stewart, J.

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

RECEIVED  
CHAMBERS  
JUDGE STEWART

OCT - 1 1976

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KHALIEB McKINNON, LAURENCE MINCY, :  
DAVID WHEELER, :

Plaintiffs, :

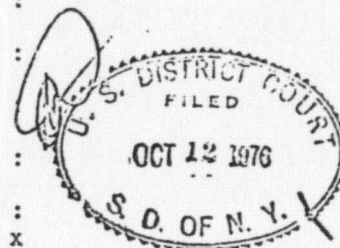
-against- :

73 Civ. 3998 (C.E.S.)

J.W. PATTERSON, JOSEPH W. PERRIN  
and ROBERT E. McCLAY, individually  
and in their capacities as Deputy  
Superintendents of Eastern New York  
Correctional Facility and Attica  
Correctional Facility, respectively,  
BENJAMIN WARD, in his capacity as  
New York Commissioner of Corrections,  
PETER PREISER,

FINAL JUDGMENT AND  
ORDER

Defendants. :  
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Plaintiffs having filed a third amended complaint nunc  
pro tunc on May 28, 1976 seeking equitable and monetary relief  
from defendants, which complaint contains five claims for  
relief asserting respectively that defendants deprived plaintiffs  
of certain rights under the Constitution of the United States by  
(1) confining plaintiffs to their cells for a substantial  
period of time without affording plaintiffs an adequate hearing  
in violation of plaintiffs' Fourteenth Amendment rights to due  
process; (2) confining plaintiffs in their cells and subsequently  
transferring plaintiffs to other prisons because of plaintiffs'  
attempts to express legitimate grievances in violation of  
plaintiffs' First and Fourteenth Amendment rights; (3) trans-  
ferring plaintiffs to other institutions in retribution for and  
to impede plaintiffs' rights of access to the Courts under the  
Fourteenth Amendment; (4) transferring plaintiffs from a medium  
security institution to maximum security institutions without

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prior notice or a hearing in violation of plaintiffs' Fourteenth Amendment rights to due process; and (5) treating plaintiffs more harshly than other inmates in similar circumstances were treated solely because of plaintiffs' race in violation of plaintiffs' rights to equal protection of the law under the Fourteenth Amendment, and an answer by defendants having been filed thereto on June 14, 1976, and this action having been tried before the Court, Honorable Charles E. Stewart, presiding, on May 24, 25 and 26, 1976, and the issues having been duly tried, and the Court having considered all the evidence presented, and the memoranda of law submitted by plaintiffs and defendants, and having heard oral argument from both parties, and a decision having been duly rendered and filed on September 15, 1976, it is hereby

ORDERED, ADJUDGED AND DECREED, that plaintiffs' above-referenced second, third, fourth and fifth claims for relief are denied in all respects; and it is

FURTHER ORDERED, ADJUDGED AND DECREED, that plaintiffs' first claim for relief is granted, but plaintiffs' prayer for equitable and monetary relief respecting this claim is denied; and it is

FURTHER ORDERED, that in future adjustment committee proceedings involving keeplock, formal written notification of the charges must be given to the inmate at least 24 hours before the hearing, and no person with direct, personal involvement in the incident upon which the charges against the inmate are based may be a member of the adjustment committee panel conducting the hearing; and it is



FURTHER ORDERED, that the parties shall bear their  
own costs.

Dated: New York, New York  
October 12, 1976

*Christopher J. ...*  
UNITED STATES DISTRICT JUDGE

*7/1/76*

JUDGMENT - 10/12/76  
*Raymond J. Beerglandt*  
CLERK



cells. Who is the "we" who remained locked?

THE WITNESS: The laundry. The inmates that worked in the laundry.

Q Were all the inmates who worked on the laundry in one particular housing unit, were they in one place in the institution?

A No, they were scattered about the institution.

Q How many workers, approximately, in the laundry were housed in your particular one?

A Approximately 40, maybe 50.

Q How many people worked in the laundry, do you remember?

A Maybe 60.

Q Now, you were locked in your cells. You were never told why you were locked in your cells. When was the first time you were ever told by anybody in authority why you were being locked in?

A The first time was two days after the incident, after we were locked in. It was two days later.

Q In those two days that you were locked in, did you ever attempt to contact anybody in authority, either to complain or to ask about why you were being locked in?

A I did.



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Q How did you do that?

A The officer came around for his cell inspection for the count, and I gave him a note to deliver to Mr. Perrin.

Q Why did you choose to deliver the note to Mr. Perrin?

A Well, at that particular time the superintendent wasn't at the facility, and Mr. Perrin at that time was acting warden, was acting superintendent.

Q Was any action ever taken on that note? Was any action ever taken?

A No.

Q Did you ever receive any sort of hearing regarding your confinement yourself?

A I did.

Q When did you receive that hearing?

A Approximately the 7th of June.

Q Did you receive any advance notice that there was going to be a hearing?

A No, I didn't.

Q Did you receive any advance notice of what you were charged with?

A No, I didn't.

Q Would you describe the circumstances of the



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hearing? What kind of hearing was it? Did it have  
a name?

A A kangaroo court, I don't know. It was  
Adjustment Committee. It was known as Adjustment Committee.

Q And could you describe what happened at the  
Adjustment Committee hearing?

A I appeared before the Committee, which consists  
of a lieutenant, an officer and a civilian.

Q Where were the hearings held?

A They were held in the North Hall, recreation  
room spot, in the back of the company, of the housing block.

Q How were you taken down to the hearing?

A I was released out of my cell, two officers  
came up and escorted me downstairs to the hearing.

Q At the hearing were you notified of the  
charges against you?

A I was.

Q Were you given a copy of any written reports?

A I wasn't.

Q Regarding what you were charged with?

A No.

Q Did they tell you that there were written  
reports?

A That they --



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Q Did they tell you that there were written reports about your behavior?

A Yes, he did.

Q What was said to you about the infraction that you were charged with?

A The lieutenant informed me that I had been charged with participating in a sit-down strike, and he asked me if I had anything to say.

Q And what did you say?

A I told him no.

Q No, you didn't have anything to say?

A No, I didn't. He asked me, was it true? I said yes. And that was that.

Q Did he ask you if you did contract work?

A No, he didn't.

Q Did they ask you any questions about the incident itself, about your participation in the incident?

A He asked me did I say anything, did I --- he asked me did I participate in the strike. I think the report said that I was instrumental, that I was a leader, something to that effect. He asked me was I a leader or spokesman. I told him no.

Q Did you ever tell him about your permission to do Suni Muslim clothes?



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of the incident in the laundry room would be transfer?

A Yes.

Q Could you tell me, when did you speak to Mr. Perrin?

A I saw Mr. Perrin, well, on a different day when I was going to the inmate liaison committee, I saw Mr. Perrin in the hallway, I was with an officer. I asked to speak with him, and he granted me that interview right then and there.

Q And what did you say to Mr. Perrin?

A I informed Mr. Perrin that we had been locked up for several days without any recreation activity, without any legal papers, without access to the law library etc., etc., etc.

Mr. McClay -- excuse me, Mr. Perrin said that he would check into it.

Q Did you subsequently get recreation privileges?

A That we did.

Q And you subsequently got legal papers and access to the law books?

A That we did.

Q And do you feel that that is a result of your conversation with Mr. Perrin?

A I do.



2 A Yes, he was.

3 Q Where was he?

4 A He was at his desk.

5 Q Did you at any time during the morning of  
6 June 5th hear any correction officer or employee of the  
7 Department of Corrections say anything to you concerning  
8 the subject of contract work?

9 A To me, no.

10 Q During the morning of June 5, then, you are  
11 saying you never heard the word "contract" either from a  
12 fellow inmate or from any member of the staff, is that cor-  
13 rect?

14 A I can't recall if anybody -- I can't recall that.

15 Q But was the subject of contract work ever  
16 discussed on the morning of June 5, as best as you can  
17 recall?

18 A I can't recall.

19 Q When you were in keep-lock, did you have your  
20 personal belongings with you, in your cell?

21 A Yes, I did.

22 Q Did you have a radio?

23 A No.

24 Q Did you have running water?

25 A I did.



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Q Were you permitted to shower?

A Once a week.

Q How much exercise, how many periods of exercise did you have during the time you were in keep-lock?

A My entire?

Q That's correct.

A Three or four sessions maybe.

Q You testified you had a conversation with McClay. Do you recall when that conversation was?

A The date?

Q Yes.

A No, I don't.

Q Was that while you were in keep-lock?

A Yes, it was.

Q What was the occasion on which -- you didn't have this conversation with him in your cell, did you?

A No, I didn't.

Q What was the occasion on which you left your cell that you had this conversation with Mr. McClay?

A I was nominated a nominee for the inmate liaison committee and he was the deputy superintendent of programs and he was the overseer of this committee.

Q You testified you had a conversation with Mr. Perrin.



2 Q If you know, when you tell me they called  
3 down, who is "they"?

4 A One of the persons that was on the original  
5 complaint, Ralph Lee, who was in about two cell.

6 Q And where were you in relation to Ralph Lee?

7 A Oh, about four or five. I was further up,  
8 you know, than him, or Frank Bruton was, and he was, like,  
9 right in one cell, that he could call down or call right  
10 there, and if it was his officer sitting up there he  
11 could get his attention.

12 Q Did you at some point ascertain the reason  
13 for your not being allowed out of the cell?

14 A Yes.

15 Q And what was the reason?

16 A Well, when I finally saw a lieutenant who  
17 came on the gallery, I don't know his name, he told me  
18 that I was administratively keep-locked because of the  
19 sitdown.

20 Q When did this lieutenant come on the gallery,  
21 do you recall?

22 A Oh, he came up there looked like to look over  
23 things just before we went to court.

24 Q Before you went to court?

25 A Just before we went down to, you know, they



1 call the court, but the Adjustment Committee.

2 Q Was that on June 5 or some later date?

3 A No, this was like around June 7.

4 Q So between the time you were keep-locked  
5 and June 7 no one told you why you were being keep-locked?

6 A No. There was, you know, like, what you say,  
7 rumor, you know, why you were, but I didn't know for  
8 sure so I waited till he told me.

9 Q And you said that on June 7 you appeared  
10 before an Adjustment Committee, is that correct?

11 A Yes.

12 Q Did you have any prior notice that you were  
13 going to appear before an Adjustment Committee?

14 A No.

15 Q When was it that you appeared, what date was  
16 it? June 7?

17 A 7.

18 Q And do you remember the time, approximately?

19 A It was some time -- may have been just before  
20 lunch.

21 Q Could you tell me what happened when you  
22 appeared before the Adjustment Committee?

23 A When I was taken out of my cell and taken  
24 downstairs, they were using a feed-up area for to hold  
25



2 A Yes.

3 Q Did the correctional officers know this and  
4 allow it?

5 A Well, I couldn't say, you know, what was in  
6 their head, but nothing, you know, was really done about  
7 it.

8 Q When you appeared before the Adjustment  
9 Committee, were you shown a copy of the charges against  
10 you?

11 A Yes.

12 Q You were given a copy?

13 A Not given one but shown one.

14 Q You were shown?

15 A The same one that the lieutenant read he  
16 turned around, you know, for me to see.

17 Q And then he asked you if you had anything to  
18 say?

19 A Yes.

20 Q About this. And you said?

21 A Well, my words were, "I thought it was a  
22 personal thing between officers in there, you know,  
23 personal interpretation of the rules."

24 Q Did they ask you any further questions about  
25 what you have just said?



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2 A No.

3 Q Was any disposition made at that time by the  
4 Adjustment Committee?

5 A Well, they had a huddle, you know, put their  
6 heads together, and they decided that --

7 Q Were you in the room at the time they were  
8 doing this?

9 A Well, I was in the north hall while they were  
10 doing it because that is where the proceeding was held,  
11 right in the hall.

12 Q In other words, you didn't leave the room  
13 while they had this huddle?

14 A No, sir.

15 Q You mentioned there was a lieutenant of the  
16 Adjustment Committee. Do you remember who else was there?

17 A Oh, they had a civilian and an officer, you  
18 know.

19 Q And after they had this huddle, what happened?

20 A Well, they recommended that I be given seven  
21 days, with investigation and a re-appearance and a change  
22 of job assignment.

23 Q Did they say your job would be changed?

24 A Yes.

25 Q Did they tell you that you had a right to



1 a review by the superintendent of their disposition?

2  
3 A No.

4 Q Can you estimate how long the hearing lasted?

5 A Three or four minutes.

6 Q This report that you were shown, did they say  
7 or do you know who offered the report, who wrote the  
8 report up?

9 A No. Generally the officer in a particular  
10 area where something happens makes out the report, but I  
11 didn't look to see who signed it.

12 Q Was that officer present at the hearing?

13 A No.

14 Q Were you offered the opportunity to bring in  
15 any witnesses or offer any additional testimony as to  
16 your version of what happened in the laundry?

17 A No.

18 Q What happened to you after the Adjustment  
19 Committee hearing?

20 A Well, I was taken back to my cell, and I guess  
21 that was it up until the time I started, like, drawing up  
22 the complaint.

23 Q At any time after you were keep-locked, did  
24 any corrections officer visit you and ask you whether  
25 you would be willing to return to work in the laundry?



## 2 AFTERNOON SESSION

3 2:15 P.M.

4 K H A L I E B M c K I N N O N, resumed.

5 THE COURT: Proceed, Mr. McMurry.

6 CROSS EXAMINATION

7 BY MR. MC MURRY:

8 Q Mr. McKinnon, how long were you in keep-lock  
9 as a result of the laundry incident?

10 A Oh, about fifteen days.

11 Q And did you have any opportunity to shower  
12 during that time?

13 A Yes.

14 Q How many?

15 A About twice.

16 Q How many times were you permitted to take  
17 recreation?

18 A Three or four.

19 Q For periods of how long?

20 A An hour; 45 minutes to an hour.

21 Q When you were in keep-lock you were in your  
22 cell, is that correct?

23 A Yes.

24 Q Did you have running water? Did you have  
25 running water?



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A Yes, sir.

Q Did you have your own clothes in there, your own personal belongings?

A Yes.

Q Did you have a radio?

A No.

Q Did you have your own reading matter? You had reading matter in the cell?

A Some of it.

Q Some of it?

A Yes.

Q Did you lose the radio because you were in keep-lock?

A They have earphones there, you know, but I didn't have any.

MR. ANDRETTA: What was the answer to the question?

(Answer read.)

Q Why didn't you have any? Was there a reason?

A Excuse me?

Q Did did you have no earphones?

A Oh, mine had been broken.

Q How long were you in Eastern Correctional Facility?



Might I ask just this one other question?

RECROSS EXAMINATION

BY MR. MC MURRY:

Q Mr. McKinnon, when you were at your Adjustment Committee proceeding, did you tell anyone on the committee that you wanted to call any witnesses?

A No, sir.

MR. ANDRETTA: One other question, your Honor.

BY MR. ANDRETTA:

Q Were you ever asked when you were before the Adjustment Committee whether you could call witnesses?

A No, sir.

MR. ANDRETTA: No further questions.

THE COURT: May I see counsel for a moment?

(At side bar.)

THE COURT: Mr. McMurry, do you want to give me an offer of proof on what he would show on his prior disciplinary record?

MR. MC MURRY: Yes, I could, your Honor.

My offer of proof would be that these individuals, some of them, not everybody --

THE COURT: How about this one?

MR. MC MURRY: My offer of proof is that he had a lengthy disciplinary record during his career in the state



9:30, 9:45, 10:00 o'clock, something like that.

Q You were keep-locked at 9:30 in the morning?

A No. We were keep-locked about right after lunch.

Q After the noon count?

A Right.

Q How long were you keep-locked?

A Almost two weeks. In fact, it was 15 days;  
15 or 13 days.

Q When you were keep-locked, were you told the  
reason why you were being keep-locked?

A Well, after I received -- after I came to the  
committee, infraction committee, I was told, but not as  
soon as I went to my cell at 12:00 o'clock.

Q Between the time you reported to the laundry  
in the morning of June 5, 1973, and the time you were  
keep-locked, did you have any notice that you were going  
to be keep-locked?

A No.

Q And you say the first time you were told why  
you were keep-locked was when you reported to the Adjustment  
Committee?

A That's right, sir.

Q And when was that?

A That was about three days after we were keep-



locked; I think it was three days.

Q And what happened with the Adjustment Committee?

A Oh, I went downstairs to the Adjustment Committee-- one of the men went out of town -- I went downstairs to the Adjustment Committee, and they put a piece of paper in front of me, and they asked me -- no, they told me that I was there because of a sitdown strike that we had, and was it true that I was involved in a sitdown strike.

And I says yes, I was. And they whispered something among each other, and then they sentenced me to seven days and was to return after seven days.

Q You say they sent you for seven days?

A Seven days, for the disturbance that took place.

Q You mean keep-lock for seven days?

A Right.

Q And what else did they say?

A And I was to return after the seven days.

Q For a review?

A Right.

Q Did you return for a review?

A No.

Q Did they say anything else to you?

A They asked me the meaning of my name.

Q How long did this meeting last, approximately,



1 if you can remember?

2 A About five minutes.

3 Q Did they ever tell you that you had a right  
4 to seek a review from the superintendent of their action?

5 A No.

6 Q I am sorry, I didn't hear you.

7 A No.

8 Q Did they ever ask you whether you had any  
9 witnesses you would like to call on your own behalf?

10 A No.

11 Q Did you have prior notice of the charges that  
12 were brought -- strike that.

13 Before you were here before the Adjustment  
14 Committee, were you given prior notice of this appearance?  
15 Did anyone tell you you were to go to the Adjustment  
16 Committee before you went there?

17 A No.

18 Q While you were in keep-lock, did you have access  
19 to the law library?

20 A No, I didn't have access to the law library.  
21 No, I didn't.

22 Q Were you in any other programs at Eastern besides  
23 working in the laundry?

24 A Yes, I was in creative writing, I was in the  
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A No.

Q When you were transferred to Comstock, did you have a job at Comstock?

A Yes.

Q You did have a job?

A Yes.

Q Did you have it immediately upon arriving at the institution or was there any delay?

A There was a delay.

Q How long?

A Approximately nine days.

Q Nine days. And during that time where were you incarcerated? Were you in the general population at Comstock?

A After the second day, yes.

MR. ANDRETTA: I have no further questions, your Honor.

CROSS EXAMINATION

BY MR. MC MURRY:

Q When you were in keep-lock, Mr. Wheeler, did you have any opportunity for showers?

A Yes.

Q How many such opportunities?

A One.



1                   Q       Did you have a radio in your cell?

2                   A       Earplugs with a radio, yes.

3                   Q       Did you have your own personal belongings,  
4                   reading material, clothes and so on?

5                   A       Yes, I did.

6                   Q       Were you given any opportunity to take exercise?

7                   A       Not immediately, no.

8                   Q       When?

9                   A       Eight, nine days after being --

10                  Q       How many times did you take exercise during the  
11                  time you were in keep-lock?

12                  A       One hour each day, about three days.

13                  Q       You testified you had visits from your family  
14                  while you were at Eastern, is that correct?

15                  A       One visit.

16                  Q       One visit? How many visits did you have while  
17                  you were at Comstock?

18                  A       Two visits. From different people.

19                  Q       Excuse me?

20                  A       From different people.

21                  Q       Different people?

22                  A       Right.

23                  Q       Did you do any work in the laundry on the  
24                  morning of June 5, 1973?



1 Q Who used the words "contract laundry"?

2 A One of the officers. I believe it was the  
3 sergeant spoke on it.

4 Q Do you recall his name?

5 A No, I don't recall his name.

6 Q What was the dispute about, in your opinion, in  
7 the laundry room on the morning of June 5, 1973?

8 A It was dealing with personal clothing, the  
9 privilege or the opportunity to have it done, to press  
10 them and have them washed.

11 Q By personal clothing, what do you mean? Do  
12 you mean personal clothing of the individual assigned to  
13 the laundry or of other people in the institution?

14 A Well, individual assigned to the laundry.

15 Q In other words, personal laundry meant only  
16 the personal laundry of the person assigned to the laundry,  
17 is that correct?

18 A Yes.

19 Q While you were before the Adjustment Committee  
20 proceeding, did you ever tell anyone on the committee that  
21 you wanted to call any witnesses?

22 A No.

23 Q You testified that you were told that the  
24 original or one of the complaints was never filed. Who  
25



2 objection?

3 MR. McMURRY: What does "unusual" mean?

4 Q How many sit-down demonstrations had there been in  
5 the --

6 A That was the only one since I had been there, sir.

7 Q While you were at Eastern, did you hear of or  
8 did you know of any other sit-down demonstrations occurring  
9 in the institution, besides the one in the laundry room?10 A Yes, sir, I believe they had one in the mess hall  
11 around the same time.12 Q Do you recall any other sit-down demonstrations,  
13 mass refusals to work?

14 A No, sir, I don't.

15 Q So would you consider a sit-down an unusual  
16 occurrence?

17 A Yes, sir.

18 Q As a matter of general procedure at the institution,  
19 if an incident occurs that is unusual, the report is made  
20 out to the deputy superintendent and sent to him by the  
21 uniformed corrections personnel?22 A Yes, I believe so. Yes. We sent one. It was  
23 signed by the officers that were involved in the incident  
24 and Mr. Hartley also.

25 Q But the misbehavior reports themselves are not



1           Q     At the Eastern Correctional Facility?

2           A     At the Eastern Correctional Facility, Napanoch,  
3                 New York.

4           Q     How long have you been employed in that capacity?

5           A     Since 1949, in the Department of Correction.

6           Q     How long have you been the Deputy Superintendent  
7                 in charge of -- I am sorry.

8           A     Since February --

9           Q     I am sorry. -- in charge of Security Services?

10          A     That is correct. Since February 1972.

11          Q     As the Deputy Superintendent in charge of Security,  
12                 what are your duties?

13          A     Primarily the security and custody and well-being  
14                 of the inmates.

15          Q     Security, custody and well-being of the inmates.  
16                 Could you get more specific about that? I imagine that  
17                 everybody in the prison is interested in the security,  
18                 custody and well-being of the inmates, including the inmates  
19                 themselves.

20          A     Yes. Would you repeat that a little, please? I am  
21                 not quite hearing you.

22          Q     Yes. Could you be more specific about what your  
23                 duties are?

24          A     Yes, sir. I am in charge of the custodial force,  
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the guard force, and the supervisory force in security.

Q Are they all uniformed personnel?

A Yes, entire uniformed personnel under my command, that is correct.

Q Are you in charge of any civilian personnel?

A Just those working in my office.

Q Go on.

A Which would be a secretary, typist.

Q In connection with your supervision of the uniformed personnel, what are you responsible for in the prison? Are you responsible for seeing that the men get trained, for instance?

A That would be one of my functions, yes.

Q Could you elaborate on some of your other functions?

A To see that all the posts are properly covered; to see that the inmates are properly fed, properly clothed; the inmates' general well-being; also that the officers are performing their duties in a proper way.

Q In connection with the inmates' general well-being, does that include -- withdrawn.

When you say the inmates' well-being, is it possible to be more specific? Can you tell me what constitutes a well inmate?

A We try to provide the climate for the inmate so he



2 Q Who is that?

3 A Mr. McClay. And I don't know if at that particular  
4 time there was one of administration or not. There was one  
5 made right around that time. I believe there was one.

6 Q Who is that?

7 A Mr. Church.

8 Q At that time did you all assist one another as you  
9 do now in performing your various functions within the  
10 institution?

11 A We cooperate with one another, yes. Cooperate  
12 would perhaps be a better word.

13 Q You knew of the incident on June 5, 1973, of which  
14 you have heard testimony today.

15 A That is correct.

16 Q How did you know that? How did you find out about  
17 it?

18 A It was brought to my attention through a telephone  
19 call from Lieutenant Brock, informing me --

20 THE COURT: Was he then Sergeant Brock?

21 THE WITNESS: Pardon me, Sergeant Brock. -- inform-  
22 ing me of trouble in the laundry, and I dispatched the watch  
23 commander, Lieutenant Blades, to investigate.

24 Q I take it that since you directly dispatched  
25 Lieutenant Blades to investigate this particular incident,



1       you kept a fairly close watch on what happened with the  
2       incident? You asked Lieutenant Blades for a report?

3           A     That is correct.

4           Q     And you asked him what happened to the men,  
5       the inmates, I mean.

6           A     That is correct.

7           Q     Did you conduct any further investigations regarding  
8       the incident?

9           A     Yes.

10          Q     What kind of investigation did you conduct, sir?

11          A     Written reports from the persons involved.

12          Q     Did you ever talk to the inmates?

13          A     I can't recall specifically.

14          Q     But you may have. Is that your testimony?

15          A     I may have.

16          Q     Were you told that these men were going to go  
17       before the Adjustment Committee?

18          A     I am sorry, I didn't hear the last part.

19          Q     Were you told that the men involved in the  
20       incident, the inmates involved in the incident -- I am sorry,  
21       let me clarify that -- were to be brought before an Adjustment  
22       Committee?

23          A     I became aware of it, yes.

24          Q     How did you become aware of it?



2 Q Is that your recollection of his testimony?

3 A I heard only parts of his testimony.

4 Q Were you advised of the fact that some ten to  
5 fifteen inmates on whom misbehavior reports had been  
6 written up were not given Adjustment hearings?

7 A No, sir.

8 Q Is it your testimony that every one of the inmates  
9 involved in this altercation or in this incident were given  
10 Adjustment Committee hearings?

11 A That would be my understanding.

12 Q How do you arrive at that understanding, Mr. Perrin?

13 A How would I arrive at that understanding?

14 Q Yes.

15 A When an Adjustment Committee -- when a misbehavior  
16 report is written up, it is the procedure to go before an  
17 Adjustment Committee, when a misbehavior report is written  
18 up.

19 Q When you say that you are in charge of the security  
20 of the institution, that includes, I would assume, making  
21 sure that the procedures of the institution are followed,  
22 does it not?

23 A That is correct.

24 Q So if misbehavior reports were not written up on  
25 inmates who were involved in an incident like this, wouldn't



2 you think that was kind of strange?

3 A The superintendent involved himself in this affair  
4 and as such I wasn't aware of all that was going on.

5 Q When did the superintendent involve himself in  
6 this affair? Well, let me lay a foundation for that. Who  
7 was the superintendent at that time?

8 A Mr. Patterson.

9 Q When did he involve himself in this affair?

10 A I believe that same day.

11 Q How do you know that?

12 A Well, I informed him of the situation verbally.

13 Q When did you inform him of the situation, please?

14 At what time?

15 A I have no idea.

16 Q Was it before you dispatched Lieutenant Blades?

17 A No. I would have dispatched Lieutenant Blades  
18 first before reporting -- before reporting to him.

19 Q And wouldn't you in fact have gotten Lieutenant  
20 Blades' report first before you would have talked to the  
21 superintendent?

22 A Before I would talk to him in depth, yes, but not  
23 necessarily so.

24 Q So the superintendent did not have any kind of  
25 full understanding of this incident until you had received



1 wc 39 Perrin - direct

2 was withdrawing his misbehavior reports?

**BEST COPY AVAILABLE**

3 A I don't recall that, no.

4 Q Superintendent Perrin, you have a situation here  
5 where a number of men were involved, is that true?

6 A That is correct.

7 Q It is a situation over which you exercised fairly  
8 close control, is that not true?

9 A That is correct.

10 Q If some of the men involved in that situation  
11 were not to receive any sanctions for it, wouldn't you want  
12 to know about that?

13 A That is correct.

14 Q And this situation didn't.

15 A As I stated, the superintendent involved himself  
16 into this.

17 Q So it is your testimony that it was the superintend-  
18 ent who directed that interviews be held in the cell blocks  
19 and that Adjustment Committee hearings not be held for the  
20 men who were interviewed and who were sent back to work? Is  
21 that so?

22 A I don't know what the superintendent directed.

23 Q Wouldn't the superintendent talk to you as deputy  
24 in charge of security if he was doing something like this?

25 A Usually. I may have been involved in other duties



at the time where he couldn't reach me.

Q And he would not tell you the day after? You did testify that ordinarily that would be something that you would be directly involved in and closely involved in, did you not?

A Ordinarily, that is correct.

Q Wouldn't somebody tell you about it at some point?

A Unless everyone assumes that I had been told, which could account for poor lack of communications.

Q Why would everybody assume that you had been told?

A Because I would be directly involved in that in most cases.

Q And directly responsible for it in some cases?

A Under the superintendent, yes.

Q In this situation would you ordinarily be directly responsible for this situation under the superintendent?

A Sir, would you please face me when you talk? When you talk the other way, I lose part of the conversation.

Q I am sorry. In this situation would you be directly responsible for what happened to these men under the superintendent, ordinarily?

A Ordinarily under the superintendent, yes.

Q As a matter of regular procedure you would, is that so?



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A That is correct.

Q What is an Adjustment Committee?

A An Adjustment Committee is a committee made up of three personnel, one the rank of lieutenant, one a civilian, one a correction officer, to ascertain, to go over the facts of a misbehavior report. And the Adjustment Committee comes to a decision as to the validity of the report that is written and to take necessary sanctions.

Q Necessary sanctions.

A If it is so called for them.

Q What can an Adjustment Committee do? What sanctions can an Adjustment Committee take?

A An Adjustment Committee may --

THE COURT: Do we need to find this out from this witness? Don't we already know what the Adjustment Committee does? If you have something that you want to get --

MR. FUCHS: All right, I will withdraw this question.

THE COURT: Mr. Fuchs, if you want to go into this with this witness because you have something special in mind, go ahead.

MR. FUCHS: I will withdraw the question. I think your Honor is right.

Q Mr. Perrin, could you tell me what a Program



2 Committee is?

3 A Yes, sir. A Program Committee is made up of members  
4 of the institutional staff. It's their functions and duties  
5 to place an inmate in a program where they think that he can  
6 best function.

7 Q Does the Program Committee ever mete out sanctions  
8 against an inmate?

9 A No, sir.

10 Q Does a superintendent's proceeding provide sanctions  
11 against an inmate?

12 A Yes, sir.

13 Q As a general course of business.

14 A Well, they may provide sanctions or they may  
15 dismiss it.

16 Q Those are the two alternatives that they have.

17 A Yes, sir.

18 Q And one of the sanctions a superintendent's committee  
19 can provide is a change in program, is it not?

20 A That is correct.

21 Q That is a sanction.

22 A I would say it is a sanction, yes.

23 Q Can the Adjustment Committee change a man's  
24 program?

25 A They may recommend it.



1           Q     And if a change in program is recommended by the  
2           Adjustment Committee, and the program is changed, does the  
3           superintendent's hearing have to be held if the Adjustment  
4           Committee recommends it?

5           A     No, sir.

6           Q     Are the procedural safeguards offered at a  
7           superintendent's hearing more stringent than they are at an  
8           Adjustment Committee hearing?

9           A     I don't understand.

10          Q     Do you understand my question?

11          A     I don't know if it would be called more stringent  
12          or not.

13          Q     Does the inmate have more rights in front of the  
14          superintendent's proceeding, in your opinion?

15          A     No, not in my opinion. Has more rights?

16          Q     Yes.

17          A     Repeat that question again.

18                 (Record read)

19          A     No, I don't think he has more rights.

20          Q     So you are saying that in --

21                 THE COURT: You started to ask the witness a few  
22          minutes ago about what happens before Adjustment Committees,  
23          and I suggest that you did not get it from this witness. If  
24          you are going to pursue this line, I think you ought to ask  
25



2 the question which I suggested you might want to.

3 MR. FUCHS: Thank you, your Honor.

4 Q What is an Adjustment Committee, Mr. Perrin?

5 A What is the Adjustment Committee? The Adjustment  
6 Committee reviews, makes decisions upon misbehavior reports.  
7 They make decisions on misbehavior reports, and they deal  
8 out sanctions if they find the misbehavior reports are  
9 valid.

10 Q When an inmate is called to appear before an  
11 Adjustment Committee as a result of a misbehavior report,  
12 what rights does he have? Does he have a right to remain  
13 silent?

14 A He has a right to remain silent.

15 Q Is he given his rights as a matter of course? Is  
16 he told he has a right to remain silent when he is called  
17 before an Adjustment Committee?

18 A I don't conduct these Adjustment Committees. I do  
19 believe he is -- I know he is asked what his side of the  
20 story is, what his explanation is.

21 Q Does he have a right to counsel?

22 A To counsel? No.

23 Q Does he have a right to be told what the charges  
24 are against him?

25 A Definitely.



1           Q     Does he have that right in advance of the hearing?

2           A     He is told when the hearing is being conducted,  
3                 he is told what the charges are, he is read the charges.  
4

5           Q     At the time of the hearing?

6           A     That is correct. But he is told beforehand when  
7                 he is locked up why he is being locked up, what the charges  
8                 are. So he is told what the charges are at that time.

9           Q     And he is told whether or not a job change will  
10                be recommended for him.

11          A     No. That would be prejudging. The man who writes  
12                the report, he doesn't hold it.

13          Q     I thought you said that one of the possible  
14                sanctions that an Adjustment Committee can visit upon an  
15                inmate, if that is the right word, is a recommendation of  
16                a job change?

17          A     That is correct.

18          Q     Do they tell the inmate that they are going to  
19                recommend him for a job change?

20          A     We are confused here somewheres. The man that  
21                writes the misbehavior report, once he writes his misbehavior  
22                report, he has no more to do with it unless he is called in  
23                to explain.

24          Q     I understand that. We are in front of the  
25                Adjustment Committee. The Adjustment Committee reaches the



1 A The reasons I don't know.

2 Q But in general the kind of thing that gives him  
3 the right to receive notice of the hearings prior to the  
4 hearings themselves, are there a number of those rights  
5 attendant in a superintendent's hearing that aren't there  
6 in an Adjustment proceeding?

7 A In a superintendent's hearing a man gets a written  
8 specification of the charges.

9 Q Is an Adjustment Committee authorized to recommend  
10 transfers of the men?

11 A Is an Adjustment Committee authorized?

12 Q To authorize the transfer of men.

13 A I assume they could make recommendations. They  
14 could make many different types of recommendations.

15 Q An Adjustment Committee, I take it, is bound by --

16 A But they had no -- that is not part of their  
17 sanctions where they can sanction such. They cannot make  
18 such a sanction.

19 Q One of the sanctions is to recommend the change in  
20 job classification, is that so?

21 A They may recommend. That is not a sanction.

22 A recommendation is a recommendation.

23 Q But that is one of the things they can do under  
24 the rules and regulations of the New York Corrections  
25



wcgw4

Perrin - direct

up to the Deputy of Programs to have his people look into it.

Q Why would they say that to you and not to the Deputy Superintendent in Charge of Programs?

A Because my men report to me most of the time, and if it was a disciplinary problem, they may be of that opinion, I may not be of that opinion.

Q So the Adjustment Committee reported to you?

A I didn't say that.

Q Your men were on the Adjustment Committee, weren't they?

A I am speaking in general cases now. I am not speaking in specifics.

Q Well, in general cases, weren't there uniformed correction officers, pursuant to rules, on the Adjustment Committee?

A That is correct.

Q And those men reported to you?

A The Adjustment Committee people usually reported to me, yes.

Q And if the Adjustment Committee people report a transfer -- recommend a transfer, would they report to you?

A Recommendation of transfer?

Q Yes.

A They would usually report it to me or possibly to



1 GW2 Perrin-direct

2 Adjustment Committee reports?

3 A Do I receive them?

4 Q Yes. When an Adjustment Committee report is  
5 made out, I assume certain copies are made. Do you receive  
6 one of those copies?

7 A No, I don't receive the copies. They go to  
8 the Adjustment Committee office and I try to review them.  
9 I try to see them.

10 Q Do you consider that part of your duties as  
11 the deputy superintendent in charge of security?

12 A They are part of my duties or at times they  
13 are delegated to a lieutenant.

14 THE COURT: You are talking about Adjustment  
15 Committee reports?

16 MR. FUCHS: Yes.

17 THE COURT: What are the reports?

18 THE WITNESS: I think the gentleman means  
19 misbehavior reports.

20 THE COURT: You mean reports to the Adjustment  
21 Committee?

22 MR. FUCHS: No. The reports that the Adjustment  
23 Committee makes out after the hearing.

24 THE COURT: Is that what you understood?

25 THE WITNESS: May I see a copy?



1 GW8

Perrin-direct

2 A No, I don't believe so, necessarily.

3 Q Aren't any sanctions and the procedures that are  
4 intended with those sanctions part of your general duties  
5 in looking out for the well-being of the inmates?6 A The entire institution is. Each facet of it,  
7 I cannot be in on. Reviews of Adjustment Committees, no,  
8 the reviews are by the superintendent. He gets the review,  
9 he is the one that is empowered to modify a sanction. I  
10 don't have that power.11 Q But if the Adjustment Committee didn't do  
12 what they were supposed to do, who would be responsible  
13 for their not acting in accordance with established pro-  
14 cedure?15 A They would be held accountable, and then I  
16 would be accountable to them and the superintendent would  
17 be accountable and I imagine the Commissioner would be  
18 accountable, if we are going to follow the chain of command.19 Q Okay. So you would be responsible for going  
20 to the Adjustment Committee and saying: "I haven't  
21 received a review of this action. Why not?", is that right?22 A If it came to my attention that a review  
23 indeed had not been made.24 Now, I don't know whether a review was made or  
25 not. If it were not made and it came to my attention,



GW9

Perrin-direct

1 certainly I would want to know why and I would insist  
2 that indeed a review was made.

3 Q Is anybody responsible for looking after the  
4 Adjustment Committee, a kind of institutional oversight  
5 committee to the Adjustment Committee?  
6

7 A They would be directly under me.

8 Q In your opinion as a correction officer, do  
9 you think that it's helpful to the well-being of the men  
10 to have them know --

11 MR. MC MURRY: Your Honor, if he is inquiring  
12 into the opinion as a correction officer, the question he  
13 asked, I would certainly reserve the right to ask his  
14 opinion as a correction officer on other subjects. I  
15 anticipate an objection on those things.

16 THE COURT: Let's hear the question.

17 Q In your opinion as a corrections officer in  
18 charge of the well-being of the men, do you think men in  
19 keep-lock should know the amount of time they are keep-  
20 locked for?

21 A That the men should know?

22 Q Yes.

23 A The men are told what the sanctions are.

24 Q If these men are keep-locked for seven days,  
25 they are told they are keep-locked for seven days and no



MR. FUCHS: No objection, your Honor.

(Defendants' Exhibit H was received in evidence.)

Q I turn your attention to Rule 18. Would you read that, please?

A "The transfer of funds from one inmate to another for personal service such as laundry work, cleaning of rooms, etcetera is prohibited and under no circumstances will such a request be allowed."

Q Could you read Rule 4, please?

A "All orders must be obeyed promptly and fully before making any complaint. If an inmate believes an order to be unjust or has any complaint concerning the order or desires to complain concerning an action, he shall notify a staff officer who shall notify the deputy superintendent at the earliest possible moment."

Q Mr. Perrin, what is keep-lock?

A Keep-lock is when an inmate is locked in his own cell and not allowed to participate in the programs.

Q What privileges or rights does an inmate in keep-lock retain?

A Retain?

Q Retain.

A When he is locked in his own cell he has his



GW45

Perrin-cross

own personal belongings, he has his books, he has the ear-phones.

Q What about diet? Does he have a regular diet?

A He has a regular diet.

Q Is he entitled to shower?

A He is entitled to -- after the first five days he is entitled to an hour recreation and he is entitled to his shower.

Q What about attendance of religious services?

MR. FUCHS: Can I hear the answer again, your Honor?

(Answer read.)

Q Mr. Perrin, did you have an opinion in June of 1973 as to whether a hearing was required prior to transferring an inmate out of Eastern to another institution?

A Would you repeat that question, please?

Q Did you have an opinion in June, 1973, as to whether a hearing was required prior to transferring an inmate from Eastern to another institution?

MR. FUCHS: I will object to that.

THE COURT: No, I will allow it.

Q You can answer the question.

A I am not sure about that. I don't believe it



GW46

Perrin-cross

1 was required. I am not sure of the specifics. I don't  
2 believe so.

3 Q If there were such a rule or such a rule came  
4 into existence, how would you find out about it -- from  
5 the Department of Correction in Albany?  
6

7 A That would be correct.

8 Q The office of the counsel?

9 A I don't know where it would come from, but it  
10 would come down from somewhere in the department.

11 Q Did anyone ever state to you on or before  
12 June 5, 1973, did anyone ever tell you or state to you that  
13 a hearing was required for inmates before transferring them  
14 to other institutions? Did anyone ever tell you that?

15 A No, I don't recall, no.

16 Q Did you sit on the committee which recommended  
17 the transfers of the plaintiffs in this case?

18 A No, sir.

19 Q Did you have anything to do with the transfers  
20 of the plaintiffs in this case?

21 A In this case, no.

22 THE COURT: I don't know that you got an  
23 answer. If you did, I didn't hear it. Didn't you ask  
24 the question about religious services while in keep-lock?

25 MR. MC MURRY: I did, your Honor.



1 GW47

Perrin-cross

2 THE COURT: I am not sure there was an answer.  
3 Maybe there was.

4 THE WITNESS: Would you repeat it?

5 Q The question was:: Were inmates in keep-lock  
6 in June, 1973, permitted to attend religious attendance  
7 or ceremonies, if you know?

8 A I believe we allowed -- I know we allowed  
9 some inmates to go to religious services if we thought  
10 there was no harm would come to the inmate. It is  
11 according to what his keep-lock was for. If it was for  
12 fighting with another inmate or assault on another inmate,  
13 no. If it was a more minor nature, yes, we allowed it.

14 Q Were you ever told by anyone that some inmates  
15 did not get re-appearances or reviews? I am talking  
16 about these particular inmates.

17 A No, sir.

18 Q In the normal course of your duties and business,  
19 would the re-appearance forms necessarily cross your desk?

20 A No, they would not.

21 Q Do you have any recollection of a conversation  
22 with an individual named Lawrence Mincy?

23 A No.

24 Q At or about the time of the laundry incident?

25 A Yes.



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GW48

Perrin-cross

253

Q Did you sit on the Adjustment Committee in any of these cases?

A No.

Q Did you supervise the Adjustment Committee in their proceedings in these cases?

A By "supervise" you mean take a hand in it or oversee it?

Q Oversee it.

A No.

Q By the way, about how many manhours did the staff at the institution at Eastern spend in compiling the information in the interrogatories? You can give a rough guess.

MR. FUCHS: I will object to that as being irrelevant.

THE COURT: I assume it took a lot of time, Mr. McMurry.

If you have some special reason for trying to develop a precise estimate of the amount of time --

MR. MC MURRY: The only reason, your Honor, was that there have been implications from the other side they were deficient and inadequate and so on.

THE COURT: Is there any notion by counsel for plaintiffs that the answers to the interrogatories



1 GW55

Perrin-

2 any institution? First of all, were you ever on the  
3 Adjustment Committee at Eastern?

4 A No, sir, I never was.

5 Q Have you been on an Adjustment Committee at  
6 other institutions?

7 A When I was the camp supervisor at Camp Pfarsalia,  
8 yes. It was a little different, but I was the disciplinarian,  
9 one of the functions, at that particular institution or  
10 camp.

11 Q When was that that you were on the Adjustment  
12 Committee at the camp?

13 A When I say Adjustment Committee, it was a  
14 disciplinary -- I was disciplinarian.

15 Q When was that?

16 A That was 1968 up to February, 1972.

17 Q And that isn't the same as the Adjustment  
18 Committee?

19 A No, sir.

20 Q Are you familiar with the way in which, in  
21 June of 1973, the way in which the Adjustment Committee  
22 at Eastern functioned?

23 A Yes, sir.

24 Q Are you familiar with what their powers were  
25 and what they could do?



1 GW56

Perrin--

2 A Yes, sir.

3 Q In your view, what were the sanctions which  
4 were available to them?

5 A To the Adjustment Committee?

6 Q Yes. What could they do?

7 A They could warn and reprimand an inmate; they  
8 could keep-lock him up to seven days with a review; they  
9 could --10 Q With a review and then suppose the review  
11 indicated that they wouldn't release him from keep-lock.  
12 What was the next step?13 A They could continue seven more days in keep-  
14 lock.

15 Q And then what? Then another review?

16 A With another review.

17 Q How long could that go on?

18 A Sir, I believe -- I don't think there was any  
19 limitations to it.20 Q You mean you could do it for seven days at a  
21 time for a year, for example?

22 A It could have been done, yes.

23 Q Do you ever know that it was done?

24 A No, it was never done at our place. Subse-  
25 quently this was changed.



1 GW57 Perrin-

2 Q What happened?

3 A They can give up to 14 days keep-lock at the  
4 present time.

5 Q And not beyond that?

6 A Not beyond that.

7 Q What happens after the 14 days?

8 A If the Adjustment Committee gave 14 days keep-  
9 lock, at the end of 14 days they would go back and function  
10 in general population, whatever program they were in.  
11 Then another sanction would be recommendations.

12 Q Recommendations --

13 A They could recommend --

14 Q To whom? Depending on the recommendation?  
15 Go ahead, you tell me. They could make recommendations  
16 of what kind and to whom?

17 A For a program change, and all recommendations  
18 in this respect would be to the superintendent, who  
19 has the function to review the Adjustment Committee reports.  
20 He has the final review of them. And he could go along  
21 with the recommendation, yes, indeed, bring them before  
22 the Program Committee, or they could recommend -- really  
23 they could -- I have been thinking about it -- they could  
24 recommend transfer, but this again is a recommendation  
25 which would go to the superintendent, and he could either



1 GW58

Perrin-

2 start to instigate it or ignore it.

3 Q If you were going to follow up on it rather  
4 than ignore it, I take it you mean by ignore it he could  
5 decide not to accept the recommendation.

6 A Not to accept their recommendation.

7 Q You don't mean ignore it. I know what you  
8 mean. He wouldn't accept their recommendation. If he  
9 decided to act on it and if it were a change in program  
10 or recommendation for a transfer, would he consult with  
11 the Program Superintendent?

12 A Then he would, in all probability, refer it  
13 to the Deputy Superintendent of Programs for his action.

14 Q Recommendations from him?

15 A Recommendations from him.

16 Q I have heard about a superintendent's hearing.  
17 Is that by the superintendent himself or does he have a  
18 committee that functions at the superintendent's hearing?

19 A The superintendent's hearing is conducted by  
20 one person. He may hold it himself -- this is the  
21 superintendent -- or he may designate it to his deputy  
22 superintendents and he may designate it to the captain.

23 Q The captain, who is the captain?

24 A The captain is the one directly under me. In  
25 this case, in our particular institution, his name is



Q I don't need the name of the individual. I wanted the description of his job. You have told me he is your first assistant, is that what it amounts to?

Q At an Adjustment Committee hearing, and I am talking now about June, 1973, to the best of your recollection, was an inmate entitled to call witnesses at that hearing?

A        No, sir, not to call witnesses. He could ask that either other inmates or other personnel that had knowledge of it, he could refer and ask the committee to look into it, but he himself, no, he couldn't -- he didn't have the power to demand witnesses.

Q Could he ask that anybody attend the Adjustment Committee hearing with him to advise him, either a lawyer or anybody else?

A No, sir. This hasn't changed from then until now.

Q        You said now the rule is 14 days for keep-lock.  
When did that go into effect?    I don't want the exact  
date.

A Approximately a year, a year and a half ago.

Q Is that a change that applies only to Eastern?



GW61

Perrin-

a misbehavior report would be prepared and then not followed through on?

A Yes, sir. A misbehavior report is written and sometimes the facts that seem to be there are not there.

As an example, a man in a school, he may be written up for not being in his classroom. Indeed, he was to the classroom and got excused from the teacher. A report would be written up that he was out of place. Then if it is backtracked and it is found indeed he wasn't at fault, that ticket would be -- that misbehavior report would be destroyed.

In the case here, a committee designated by the superintendent, and I don't know -- I can't recall who was on that particular committee, I think Mr. Barthel was and there were a few others, they asked the inmates, "Will you go back to work?"

This was our transition period. We still had inmates from New York City as we were switching over. We had a few, as I recall, not too many. The majority were state inmates. And "Will you go back to work?"

And they went back to work.

Q Not that morning?

A No, sir. I believe they were interviewed



GW84

Preisler-direct

attention, I might on occasion issue a direct order with respect to it. But even then it was basically to keep the policy in line.

Q Did you ever receive information about an incident in the laundry room at Eastern Correctional Facility?

A I did.

Q Do you recall what information you received and from whom?

A I do not recall from whom, but I remember somebody mentioning to me that there was a work stoppage in the laundry.

Q And is that basically all you remember?

A Yes, and that it was being looked into.

MR. MC MURRY: I have no further questions.

THE COURT: Did you do anything about it?

THE WITNESS: At that time it was being looked into, and subsequently I had heard somebody mention to me that they were going to transfer some inmates out, and I said all right.

THE COURT: Do you remember who mentioned that to you?

THE WITNESS: No. It would have either been Commissioner Quick or Commissioner Elwin, probably.

Your Honor, this went on all the time and this



GW85

Preiser

1 would have been a very ordinary, everyday occurrence.  
2  
3 I specifically happened to remember the incident about  
4 the laundry at Eastern because it was my impression at  
5 the time because of all the places where I might be having  
6 trouble in the system, Eastern was the least likely. So  
7 that I was somewhat taken aback at a problem at Eastern  
8 and it was as a result of that that I started to look  
9 into later a number of small problems that cropped up at  
10 Eastern, and I looked into what might be the problem down  
11 there and uncovered this business about the programs not  
12 being ready.

13 That was like the beginning of a chain of  
14 events that led me into a crash program to get these  
15 programs ready. That would be the only way I would have  
16 to recall any specific transfer of that nature.

17 THE COURT: Either Commissioner Quick or  
18 Commissioner Elwin did mention to you there were some  
19 transfers as a result of the laundry episode?

20 THE WITNESS: My best recollection. I don't  
21 know if I am reconstructing that now.

22 THE COURT: Did they do this in writing?

23 THE WITNESS: Oh, no.

24 THE COURT: Were they reporting to you or asking  
25 for your --



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A Approximately 10,000.

Q Do you recall specifically whether an individual, as you say, put his head in the door and told you about the transfers in this particular case?

A No.

Q It may have been some other incident?

A That's right. I have tremendous problems recollecting anything specific about this particular transfer. The only thing I can recollect specifically is that there was a problem in the laundry at Eastern shortly after I became commissioner.

Q Did you implement or attempt any reforms in the state penal system while you were commissioner?

MR. FUCHS: Your Honor, I don't see the relevance.

THE COURT: I don't either, but let's find out what we are getting into.

I will permit the question.

A Well, many, both before I was commissioner and while I was commissioner.

Q Can you summarize your efforts in that direction?

A They would really run the gamut. Prior to the time I was commissioner, I wrote the whole procedure



1 to bring some rudimentary due process to disciplinary pro-  
2 ceedings. I was the one who drafted all the new correction  
3 law procedures which was hailed by the Governor as a water-  
4 shed of new correctional theory.  
5

6 I also was the chief consultant to the Jones  
7 Committee, which was a blue ribbon panel established after  
8 Attica to look into the prisons and determine what was  
9 wrong with them; and I was the primary author of all of  
10 the Jones Committee reports.

11 While I was commissioner, I like to believe  
12 I implemented a myriad of improvements on just about every  
13 subject dealing with prison life.

14 MR. MC MURRY: Thank you.

15 CROSS EXAMINATION

16 BY MR. ANDRETTA:

17 Q Mr. Preiser, were you responsible under New  
18 York law while you were Commissioner of Corrections for  
19 the inter-institutional transfer of inmates?

20 A By "responsible" do you mean ultimately  
21 responsible as having ultimate supervisory authority over  
22 the department?

23 Q Yes.

24 A In that capacity, yes.

25 Q Could you tell me if you recollect who was



GW106

Blades-cross

THE COURT: All right.

## CROSS EXAMINATION

BY MR. ANDRETTA:

Q Lieutenant Blades, do you work in the laundry?

A No, sir.

Q So at the time this incident occurred you were not personally familiar with what was transpiring in the laundry up to that point?

A Not until I got there.

Q You stated that Deputy Superintendent Perrin told you to go to the laundry to look into the problem?

A Yes.

Q After you decided to keep-lock the men, did you tell Deputy Superintendent Perrin that you had keep-locked them?

A As I recall, I gave Deputy Superintendent Perrin a verbal report and then immediately wrote my written report.

Q I see. And subsequent to that time, did Deputy Superintendent Perrin ask you anything else about the incident?

A Not that I recall.

Q Did you talk to anyone from the Adjustment Committee regarding the incident?



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A No.

Q Did you appear before the Adjustment Committee?

A No, sir.

MR. ANDRETTA: I have no further questions.

THE COURT: All right, Lieutenant Blades.

Thank you very much.

J E R O M E W. P A T T E R S O N, called as a  
witness by the defendants, being first duly  
sworn, testified as follows:

DIRECT EXAMINATION

BY MR. MC MURRY:

Q What is your present occupation?

A I am retired.

Q When did you retire?

A 1975.

Q How long were you with the Department of  
Corrections?

A Slightly over 25 years.

Q Where did you start out that employment?

A I started in Green Haven Prison in 1949 as  
an offer or prison guard, as they called them in those days.

Q What was your next assignment, if you remember?

A Attica as a sergeant in 1963. I returned to



GW110

Patterson-direct

the lives of the inmates are concerned?

A I would say it would be much more relaxed as Eastern was, a very relaxed facility, even from the original turnover from New York City inmates.

Q Did there come a time when you were told about an incident in the laundry at Eastern on June 5, 1973?

A Yes, sir.

Q What were you told and by whom?

A I don't recall exactly what I was told, but I believe I was informed by Mr. Perrin, the Deputy Superintendent of Security, by telephone, to the best of my recollection.

Q And what were you told?

A I was told that a problem had come up in the laundry room dealing primarily with the fact the inmates could not do contract laundry, that contract laundry, in the vernacular, being swag laundry for themselves, for friends, for money.

THE COURT: S-w-a-g?

THE WITNESS: Yes.

A And that as a result of not being permitted to do this they were not going to perform the state laundry, in other words, take care of the laundry of that designated day, whether it be for the hospital, the kitchen

A-100



1 GW111

Patterson-direct

2 or whatever area.

3 Q Did you receive any written reports about the  
4 incident?5 A I may have. If I did, they would be on file  
6 at the facility.7 Q I show you Defendants' Exhibit C in evidence.  
8 Do you recall ever seeing this report?9 A Yes, sir, I believe I did have a copy of this  
10 report.11 Q Do you recollect whether you ever had this  
12 report, Exhibit E in evidence?

13 A Yes, sir, I also had a copy of this report.

14 Q Mr. Patterson, I show you Plaintiffs' Exhibits  
15 20, 13 and 15 in evidence.

16 Can you identify those documents?

17 A Yes. These are requests from our Program  
18 Committee to the Director of Classification and Movement  
19 for the transfer, if they are all the same, of three  
20 inmates, and I signed them.

21 Q You signed them?

22 A Yes, sir.

23 I would like to add that in any given week I  
24 might quite possibly sign 25, 30 or more of exactly the same  
25 document, but if you will notice on that document, there



GW120

Patterson--cross

MR. MC MURRY: It is quite all right, your Honor. I believe I am finished.

## CROSS EXAMINATION

BY MR. FUCHS:

Q Good afternoon, Superintendent Patterson.

A Good afternoon.

Q Is it all right to call you superintendent?

A No. I am retired. Patterson is fine, Mr. Patterson.

Q Mr. Patterson, you said that you received reports about this incident on June 5, 1973?

A Yes, sir.

Q I believe you further testified that this was the first incident of its type at Eastern.

A Of any such magnitude, yes, sir.

Q So it was something to which you would devote particular attention, was it not?

A Yes, I would say so.

Q And did you in fact devote particular attention to this incident, do you recall?

A Not really that much.

Q You didn't? I see.

Do you recall when you received -- withdrawn.

Do you recall when you received Defendants'



1 Exhibits C and E which I believe are the exhibits you  
2 were shown?  
3

4 A No, but I would imagine I would probably have  
5 received them shortly after Mr. Perrin received them  
6 because it is customary that anything of this nature he  
7 would bring to my attention forthwith.

8 Q Did Mr. Perrin bring this incident to your  
9 attention on the day it happened?

10 A Yes, sir, to the best of my knowledge, it was  
11 Mr. Perrin who brought it to my attention.

12 Q And I would assume he showed you those reports  
13 right after he got them, which would also be on the same  
14 day, according to the date on the reports?

15 A I assume so.

16 Q Did you instruct anyone to interview the  
17 inmates?

18 A No, sir, not to my knowledge.

19 Q You knew that a group of inmates was keep-locked  
20 because of this incident, did you not?

21 A I assumed they were keep-locked. When I heard  
22 of the incident and they refused to work, that would be  
23 the normal procedure.

24 Q I refer you to Defendants' Exhibit E, the last  
25 sentence of Lieutenant Blade's report. It says all men



1 were kept in their cells for interviews.

2 Who would have ordered those interviews?

3 A I may have. I don't specifically recall  
4 ordering it, but I may have. Or Mr. Perrin may have.

5 Q Who had the authority to order interviews of  
6 inmates who were keep-locked to see if those inmates should  
7 be keep-locked?

8 A The superintendent or any of his deputies.

9 Q Who are the deputies? In this case, since  
10 you and Mr. Perrin were knowledgeable, it would have been  
11 you or Mr. Perrin who would have ordered them?

12 A I might have said: "Interview them and find  
13 out what's behind it, Mr. Blades."

14 He gave a pretty fair report of what transpired.

15 Q Owing to the unique nature of this incident at  
16 that time, did you keep abreast of the proceedings as they  
17 went along?

18 A As I recall, and I could possibly be wrong,  
19 shortly after the incident I understand some people went  
20 back to work, volunteered or, after being interviewed,  
21 went back to work in the laundry.

22 I don't recall that the entire laundry inmate  
23 staff was removed and replaced. But this is very under-  
24 standable in the system, anyway.  
25



1  
2 Again I refer to the peer pressure which brings  
3 many inmates to go along with the more militant, more  
4 authoratative, and they will, in fear of physical contact  
5 or whatever.

6 Now, after everyone would be put and placed  
7 in keep-lock, an individual interview and now the inmate  
8 is not in the group, he could very well say, "Yes, I want  
9 to work in the laundry. I like the laundry. I don't  
10 have any problems down there."

11 Q Did you follow up the Adjustment Committee  
12 hearings that were subsequently held for some of those  
13 inmates?

14 A No.

15 Q Did you receive reports of the Adjustment  
16 Committee hearings?

17 A Not all of them, no, sir. Usually superintend-  
18 ent's proceedings. They customarily -- I used to receive  
19 a list of how many men went to court, what his sentence  
20 was, and so forth. But there could be --

21 Q When you say "court" --

22 A The Adjustment Committee court. There could be  
23 five men from the laundry on there and ten men or fifteen  
24 men from the rest of the institution, and we have had as  
25 many as thirty appearing before the Adjustment Committee.



1 GW124

Patterson-cross

2 Q You didn't pay any particular attention to  
3 this proceeding?

4 A No, sir, I did not.

5 Q Do you ordinarily read the reports that are  
6 given to you about the Adjustment Committee?

7 A The Adjustment Committee reports didn't show  
8 that. The result of the court did not show that. It  
9 would show the inmate's name, number, where he worked and  
10 the sentence. It would say five days keep-lock, or some-  
11 thing of the sort, one week no night recreation, or  
12 whatever.

13 Q And if the Adjustment Committee said they were  
14 going to review the sentences of men in a particular time,  
15 who would be responsible for making sure that the Adjustment  
16 Committee did in fact review the sentences?

17 A Whoever happened to be in charge of the  
18 Adjustment Committee at the time of the review.

19 There is no way you can work a lieutenant seven  
20 consecutive days so that he sees the same people in every  
21 case. In fact, that is not what the system was looking  
22 for. They wanted as many new faces on the Adjustment  
23 Committee because the purpose of it is to modify the  
24 inmates' behavior.

25 Q Who assigned people to the Adjustment Committee?



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2

A I did.

3

4

Q Were you in direct supervision of the Adjustment Committee?

5

A No.

6

Q Who was?

7

A When it was originally established --

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9

Q I am not interested in when it was originally established.

10

11

12

A I assigned. From that time on, the Deputy of Security Services. Whichever lieutenant happened to be aboard that particular day, for example.

13

14

Q The Deputy Superintendent of Security Services supervised?

15

16

A I didn't say supervised. He set forth who would sit on it, assigned the lieutenants to the committee.

17

18

Q And did the Adjustment Committee operate on its own or did it report to anybody?

19

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A All the reports came out through the Program Committee, if any changes were recommended. The Deputy of Security Services was certainly apprized of it. I believe the Deputy of Program Services knew the results. They went into the Service Unit. They were in his folder and they were made a part of his permanent record.

Q Let me show you Plaintiffs' Exhibit 37, a



document entitled Adjustment Committee Report.

Are you familiar with that document?

A No. I certainly know what it is.

Q Have you ever seen one of those forms before?

A Yes, sir.

Q Did you get them as a matter of course?

A Not from the Adjustment Committee, no, sir.

Q Who got them from the Adjustment Committee, Mr. Patterson?

A There was absolutely no reason for disseminating them throughout the entire institution. It was to be made part of the inmate's folder, the Service Unit, and so forth.

Q So they went into the inmate's folder. And what is the Service Unit? Doesn't anybody read those? That's my question, really.

A I would say they read them, yes.

Q Who?

A The counselor who is assigned to the particular inmate that has had this brush with the Adjustment Committee, for one.

Q Who else?

A Who deals with his supervisor in recommending program changes at the Program Committee meetings.



1 GW145

McClay-cross

2 Q Yes.

3 A From my own standpoint, I don't recall that.  
4 I was involved in so many at the time.

5 THE COURT: What we are getting at, the  
6 Adjustment Committee had a hearing with respect to  
7 these people on June 7, and on June 8 your people, I guess  
8 you also participated in the preparation of a report  
9 which went to the superintendent, and what we are really  
10 wondering about is, was there any relationship between  
11 the fact that the Adjustment Committee had a hearing on  
12 June 7 and the fact that on June 8 you prepared a report?

13 THE WITNESS: I don't recall. These names were  
14 coming in from various areas. Whether it was based on  
15 the Adjustment Committee action, I don't recall.

16 THE COURT: It might have happened?

17 THE WITNESS: It could have happened, yes.

18 THE COURT: It would have been one factor you  
19 certainly would have considered?

20 THE WITNESS: Yes, sir.

21 Q You mentioned one of the members of the  
22 Program Committee was a member of the security force.  
23 Could that member have been Lieutenant Demskie?

24 A At the time, I don't think so. If I recall,  
25 and I might be in error here, it was Sergeant Page, but



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THE COURT: Morning?

THE WITNESS: Yes. Lieutenant Demskie at the time was the senior officer in the area. So I have to report to him and let him know what's going on.

THE COURT: All right.

Q The sentence following says: "When I arrived at the laundry, Lieutenant Demskie, Mr. Haseltine and Mr. Barthel were outside the laundry discussing the problem."

A Right.

Q So when you went to the laundry Lieutenant Demskie was there?

A Outside the laundry. I went in. That is when I spoke with the inmates.

Q And you prepared this report the day of the incident?

A Yes, sir.

Q Will you tell me what the date of this report is, Defendant's Exhibit F in evidence?

A This date is wrong.

Q What is the date on it?

A This is 7/30.

Q 7/30/73?

A Yes.

Q So it is dated July 30, 1973.



## EASTERN NEW YORK CORRECTIONAL FACILITY

TO: COMMISSIONER RUSSELL G. OSWALD

DATE June 8, 1973

## CLASSIFICATION COMMITTEE EVALUATION OF INMATE FOR TRANSFER TO: (Check)

           AUBURN CORRECTIONAL FACILITY FOR EDUCATIONAL PROGRAM           WALKILL CORRECTIONAL FACILITY           CORRECTION YOUTH CAMP  X   OTHER (Specify) Maximum Security FacilitySUBJECT: Kalieb McKinnonINST. NO. H-12942

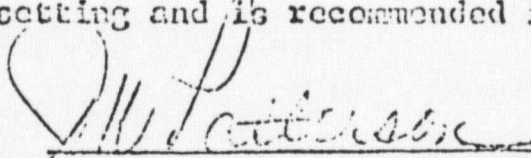
The Classification Committee has reviewed and evaluated this inmate's case in accordance with the established criteria for selecting inmates for transfer to the correctional facility indicated above, and the following determination was made: (Check one)

Recommended for Transfer   X  Not recommended for Transfer           

REASON: Kalieb McKinnon is 25 years of age and is serving concurrent sentences of 8-4-0 to 25, 12, 10 and 4. He is scheduled to make an initial Parole Board appearance in January 1976. There are no medical restrictions and functions in the average range of intelligence. In the community he functioned as an aggressor and was involved in several offences. His present commitment was predicated by his involvement in Attempted Robbery, Assault, Robbery and Attempted Rape. The subject was previously at Attica Corr. Facility and Great Meadow Corr. Facility before his transfer to Eastern on April 10, 1973. He has received several disciplinary reports during his confinement here and recently participated in a sit-down strike in the Laundry on 6/5/73. Supervisors in the Laundry feel this individual was one \*\* see below

Evaluation prompted by: (Check)           Inmate letter to Commissioner (letter attached)           Inmate request to facility officials or Service Unit  X   Program Committee Classification Procedure           Other (Specify)

\*\* of the main spokesman for the dissident of the group. It is felt that this individual cannot function in a relaxed setting and is recommended for transfer to a Maximum Security Facility.

  
Superintendent



STATE OF NEW YORK

DEPARTMENT OF CORRECTION

EASTERN NEW YORK CORRECTIONAL FACILITY

TO: COMMISSIONER RUSSELL G. OSWALD

DATE June 8, 1973

CLASSIFICATION COMMITTEE EVALUATION OF INMATE FOR TRANSFER TO: (Check)

           AUBURN CORRECTIONAL FACILITY FOR EDUCATIONAL PROGRAM

           WALKILL CORRECTIONAL FACILITY

           CORRECTION YOUTH CAMP

  XII   OTHER (Specify) Maximum Security Facility

SUBJECT: Lawrence Dwane Mincy

INST. NO. N-13147

The Classification Committee has reviewed and evaluated this inmate's case in accordance with the established criteria for selecting inmates for transfer to the correctional facility indicated above, and the following determination was made: (Check one)

Recommended for Transfer   XII  

Not recommended for Transfer           

**REASON:** Lawrence Mincy is 25 years of age and is physical class III for defective vision. Functions in the average range of intelligence. He is presently serving concurrent sentences of 10, 10 and 7 years for the crimes of Robbery and Sale of a Dangerous Drug. He is scheduled to appear before the 12/73 meeting of the MPI board. Subject has compiled a lengthy record in the community which is evidenced by at least 10 prior arrests for crimes against persons and drug-related offenses. The subject was an active participant in the sit-down strike in the Laundry on 6/5/73. His supervisor reports he was one of the leaders in this demonstration. It is felt that in his role as a spokesman for this group, he has demonstrated his inability to profit from the medium type of setting at this facility. See below

Evaluation prompted by: (Check)

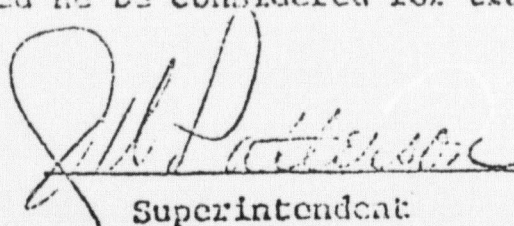
           Inmate letter to Commissioner (letter attached)

           Inmate request to facility officials or Service Unit

  XII   Program Committee Classification Procedure

           Other (Specify)

\*\* Therefore, it is respectfully requested he be considered for transfer to Maximum Security Facility.

  
Superintendent



## EASTERN NEW YORK CORRECTIONAL FACILITY

TO: COMMISSIONER RUSSELL G. OSWALD

DATE June 8, 1973

## CLASSIFICATION COMMITTEE EVALUATION OF INMATE FOR TRANSFER TO: (Check)

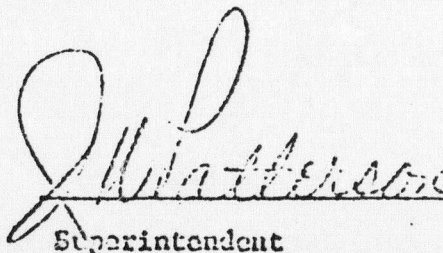
           AUBURN CORRECTIONAL FACILITY FOR EDUCATIONAL PROGRAM           WALKILL CORRECTIONAL FACILITY           CORRECTION YOUTH CAMP      x       OTHER (Specify) Maximum Security FacilitySUBJECT: WHEELER, DavidINST. NO. H-12736

The Classification Committee has reviewed and evaluated this inmate's case in accordance with the established criteria for selecting inmates for transfer to the correctional facility indicated above, and the following determination was made: (Check one)

Recommended for Transfer       x      Not recommended for Transfer           

REASON: David Wheeler is 25 years of age and is serving a 10 year indeterminate sentence for robbery consecutive with parole time owed. He is scheduled to make an appearance before the June 1974 Parole Board as an initial applicant. There are no medical restrictions. He functions in the average range of intelligence. He is psychiatrically diagnosed as a dis-social personality with poor self-control. He has several prior arrests for assault and robbery. He compiled a very poor disciplinary record at Great Meadow Correctional Facility and the disciplinary reports reflect his complete disregard for controls. He was involved in a sit-down demonstration at Great Meadow and, at this Facility, was involved in a sit-down strike of laundry workers, on June 5, 1973. Wheeler is considered to be unfit for the program at this Facility. It is recommended he be transferred to a facility providing maximum security.

Evaluation prompted by: (Check)           Inmate letter to Commissioner (letter attached)           Inmate request to facility officials or Service Unit      x       Program Committee Classification Procedure           Other (Specify)

  
\_\_\_\_\_  
Superintendent



ELLERRE  
(Inmate)

## ADJUSTMENT COMMITTEE REPORT

1. Name of inmate LIFE KENNEDY, THOMAS No. 1294  
 2. Report under review made by C. W. B. B. B. B. Date 6-7-73  
 3. Comments on review of report and inmate file 1111-1111-1111-1111  
SECOND SITTING DISCUSSION

F. E. Jones  
Signature of Committee Member

6-7-73  
Date

4. Inmate's explanation and attitude Claims his participation in the above strike because Mr. Baithell & another officer were different interrogation in regulation of doing personal clothing. He felt this was a personal thing between the officer.  
 5. Further investigation made ☐ No ☐ Yes (Attach Form 252AS)  
 6. Disposition ☐ Deferred Action ☒ Action ☐ Recommendation  
 (Specify) REVIEW 7 DAYS (6/14/73)  
 7. Where action deferred, specify duration of deferral \_\_\_\_\_  
 and whether officers directed to forward future comments ☐ Yes ☐ No  
 8. Is inmate to appear again ☐ No ☒ Yes Date 6/14/73  
 (on reappearances use Form 252B)  
 9. Where inmate was locked in cell or in special housing unit prior to disposition specify length of time to date  
2 DAYS  
 10. Does present disposition necessitate automatic review ☐ No ☒ Yes

A. J. Jones  
Signature of Chairman

C. W. B. B. B.  
Counselor

6/7/73  
Date  
P. B. C. O.



ADJUSTMENT COMMITTEE REPORT

- 1) Name of Inmate MURRY, LAWRENCE No. 13105  
 2) Report under review made by E.O. BARTHEL Date 6-7-73  
 3) Comments on review of report and inmate file REC. FR. CLARENCE OCT 5-3-73  
FIRST REPORT

Signature of Committee Member

Date

- 4) Inmate's explanation and attitude Claims he doesn't do contracts, however, he does want to do some trucking clothing. Also claims that Mr. Bartel gave them permission providing that the state clothing is done. Claims also he was met the leader but could explain the situation. Feels he is institutional in keeping the parts.  
 5) Further investigation made ☐ No ☐ Yes (Attach Form 252AS)  
 6) Disposition ☐ Deferred Action ☒ Action ☐ Recommendation  
 (Specify) Review 7 days (6/14/73)  
 7) Where action deferred, specify duration of deferral \_\_\_\_\_  
 and whether officers directed to forward future comments ☐ Yes ☐ No  
 8) Is inmate to appear again ☐ No ☒ Yes Date 6/14/73  
 (on reappearances use Form 252B)  
 9) Where inmate was locked in cell or in special housing unit prior to disposition specify length of time to date  
2 days  
 10) Does present disposition necessitate automatic review ☐ No ☒ Yes



6-14

F. J. Clark

## ADJUSTMENT COMMITTEE REPORT

- 1) Name of Inmate WHEELER David No. 127-1  
 2) Report under review made by E. W. T. Jones Date 6-5-73  
 3) Comments on review of report and inmate file File 2-20-75 from 6-10  
SILCOID SIT Down Disposition  
MAR 1-21-82

Signature of Committee Member

Date

- 4) Inmate's explanation and attitude Claims he participated in act - union  
strike. Claims that they could do population choll, on  
Monday + Tuesday and they wanted to do their own  
personal cloths on Wed, Thurs + Friday.

- 5) Further investigation made ☐ No ☐ Yes (Attach Form 252AS)  
 6) Disposition ☐ Deferred Action ☒ Action ☐ Recommendation  
 (Specify) Review 7 Days (6/14/73)

- 7) Where action deferred, specify duration of deferral \_\_\_\_\_  
 and whether officers directed to forward future comments ☐ Yes ☐ No  
 8) Is inmate to appear again ☐ No ☒ Yes Date 6/14/73  
 (on reappearances use Form 252B)  
 9) Where inmate was locked in cell or in special housing unit prior to disposition specify length of time to date  
2 Days  
 10) Does present disposition necessitate automatic review ☐ No ☒ Yes

Signature of Chairman

Title

Date



INMATE INSUBORDINATION REPORT  
TO SUPERINTENDENT

1) Name of Inmate Mr. Kline No. 18443 Cell 4-5  
Last first

2) Location of Incident in room Date 6-5-73 Time 7:00 AM

3) Description Inmate had a fit down in shop and  
was talking to work. This inmate was  
a lot of talking and was instrumental  
in talking other workers in the shop.

4) Was more than one inmate involved? Yes ☒ No ☐

5) If yes, give name and number of other inmates (where known) and describe role played by subject inmate other inmates in K.

6) Was inmate locked in cell? Yes ☒ No ☐

7) Was inmate locked in other housing unit? Yes ☐ No ☒

If Yes (a) housing unit of present confinement \_\_\_\_\_ Cell \_\_\_\_\_

(b) authorized by \_\_\_\_\_

8) Was physical force used by you? Yes ☐ No ☒  
(If answer is yes, also file Form 251-D)

[Signature]  
Signature of Person Making Report Title

9) Endorsements of other  
employee witnesses

Date June 5, 1973

(if any)  
[Signature]  
Signature

(No. of Supplementary Sheets) \_\_\_\_\_

[Signature]  
Signature

BEST COPY AVAILABLE



INMATE MISBEHAVIOR REPORT  
TO SUPERINTENDENT

1) Name of Inmate Miney, L. No. 13147 Cell 1-37  
Last First  
2) Location of Incident Laundry wash room Date 6-5-73 Time 9:00 PM  
3) Description Involved in sit down in shop and refusing to work. This resident was instrumental in involving other workers in the sit-down. When I entered the laundry wash room I saw Miney talking to the group. He made a few comments in the corridor before entering the Laundry because I had stopped the laundry workers from being in contracts. He was one of the main spokesmen in this disturbance.

4) Was more than one inmate involved? Yes ☒ No ☐

5) If yes, give name and number of other inmates (where known) and describe role played by subject inmate Other laundry workers.

6) Was inmate locked in cell? Yes ☒ No ☐

7) Was inmate locked in other housing unit? Yes ☐ No ☒

If Yes (a) housing unit of present confinement \_\_\_\_\_ Cell \_\_\_\_\_

(b) authorized by \_\_\_\_\_

8) Was physical force used by you? Yes ☐ No ☒  
(If answer is yes, also file Form 251-D)

9) Endorsements of other employee witnesses

(if any)

Ronald B. Smith  
Signature

Date

Signature of Person Making Report

June 5, 1973

C.C.  
Title

(No. of Supplementary Sheets \_\_\_\_\_)

The C. Co. A-118



CONFIDENTIAL  
(When Filled)  
INMATE MISDEMEANOR REPORT  
TO SUPERINTENDENT

1) Name of Inmate Wheeler Last Wheeler First No. 12754 cell 4-7  
2) Location of Incident Laundry Tower Date 6/5/73 Time 12:00 PM  
3) Description Work sit down to make Wheeler  
Refused to work and joined the rest of  
Laundry workers in strike. IT is felt  
that Wheeler had a part in strike and  
was instrumental in involving the  
other Laundry workers.

4) Was more than one inmate involved?

Yes ☐

No ☒

5) If yes, give name and number of other inmates (where known) and describe role played by subject inmate

6) Was inmate locked in cell?

Yes ☒

No ☐

7) Was inmate locked in other housing unit?

Yes ☐

No ☒

If Yes (a) housing unit of present confinement \_\_\_\_\_ Cell \_\_\_\_\_

(b) authorized by \_\_\_\_\_

8) Was physical force used by you?

Yes ☐

No ☒

(if answer is yes, also file Form 251-D)

John A. Jones  
Signature of Person Making Report

CC  
Title

9) Endorsements of other employee witnesses

Date 6/15/73

(if any)

John A. Jones  
Signature

CC  
Title

(No. of Supplementary Sheets \_\_\_\_\_)

John A. Jones  
Signature



## REQUEST FOR INTERVIEW OR INFORMATION

ECF 185

NAME Frank Brester NUMBER 12151 CO. 4 CELL 2 DATE 6/7/75SHOP OR DEPARTMENT: Laundry (A.D.) (A.M.) (P.M.)TO: 71/2 partiesSUBJECT: Deputy Superintendent. — Keep - lock

NOTE: State exactly what you want DO NOT ask for an interview without stating question.

PLAINTIFFS

U. S. District Court  
So. Dist. of N. Y.56-111  
DATE JUN 9 1975



June 7, 1973

To: Mr. J. W. Parrin  
Deputy Superintendent  
Security Services

Sir; My name is Frank Brewton: no. 12701 - Cell 4-2.  
My problem is that I have been keep-locked  
since 6/5/73. On that date I recieved a Medical  
Keep-lock at Morning Sick Call, From the Sick  
Call nurse Mrs H. Baslow. On the same date there  
was a sit-down strike in the Laundry. I had  
no previous knowledge of. I could not (protest)  
participate in a work-stoppage and be in my  
cell at the same time. If you would look  
into this matter I would be greatful.

Very truly  
Yours

3. Prisoner

J. W. Parrin

Respectfully

Frank Brewton

H. D. Jones

recommended  
J. W. Parrin



STATE OF NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES  
EASTERN NEW YORK CORRECTIONAL FACILITY

NAPANOCH. N.Y.

*Interdepartmental Communication*

June 5, 1973

Date .....

J. W. Porrin, D/S Security Services

From C.O.'s Barthel, Hazeltine, & Jones  
Mr. Hartley, Ldy Supv.

Subject Sit-Down

On June 5, 1973, Tuesday a.m., the laundry workers, upon entering the laundry building, was told they could not do laundry contracting. This had been a problem for some time especially with the new State inmate population. While still in the corridor outside the laundry, they had a confrontation with Sgt. VonTannhausen and were informed, they would not bring laundry contracts to laundry. At this time, all laundry workers came into the laundry with Sgt. Brock. At this time, 13147 Mincy told C.O. Barthel that they would not work until they spoke with somebody in authority, demanding to see Mr. Porrin. Sgt. Brock explained the policy of "No contracts", but they refused to go to work until they could talk to someone in authority. Sgt. Brock called Lt. Blades re-explain the policy and listen to their gripes. They told Lt. Blades they wanted to do contract work any time with no restrictions. Lt. Blades explained this was out of the question and could not be allowed.

12870, Williams, demanded everything discussed be put in writing or they would not accept any of the discussion. Lt. Blades asked all to go back to work and he would discuss the situation with D/S Porrin. They refused to go back to work and held a sit-in until noon meal, when all were locked-in.

A spokesman for the workers informed Lt. Blades that C.O.'s are in a shop only to protect the physical plant and have no control over the conduct of the workers.

(s) C.O. Ronald Hazeltine

(s) Edward D. Hartley,  
Head Laundry Supervisor



EASTERN NEW YORK CORRECTIONAL FACILITY

NAPANOCH, N. Y.

Interdepartmental Communication

Date June 5, 1973

To J. W. Perrin, D/S Security Services  
From F. E. Blades, Lt.  
Subject Laundry Incident

At approximately 10:00 a.m., this date, I went to Institution Laundry to investigate a work stoppage.

On arrival, the following conditions were found:

1. No work being done
2. All workers gathered in a group in center of shop.
3. Sgt. Brock  
Head Laundry Supervisor Hartley  
C.O. Haseltine  
Standing by

Sgt. Brock gave me a rundown on what had happened to date.

I spoke with the group in an attempted effort to find what their grievance was.

The group, as a whole, stated they were working too hard, were being denied certain benefits. Further questioning revealed that the benefits they were demanding was a lease for unlimited contracting. Contracting in this context, simply means the right to wash and press clothes for individual inmates for pay.

I informed the group, at this point, that contracting was out of the question but that laundry men could do their own work as required.

The laundry workers as a group, informed me that if they could not run their own business, they could not do work for the state. I attempted to reason with the group to no avail. They refused to go to work. All men were removed from the laundry to their cells. When the group was locked in, two men volunteered to return to the laundry to complete routine work. All other workers were kept in their cells for interviews.

*F. E. Blades*

F. Blades  
Corr. Lieutenant



STATE OF NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES  
EASTERN NEW YORK CORRECTIONAL FACILITY

NAPANOCH, N. Y.

Interdepartmental Communication

Date 7/5/73

To J. W. PERRIN, DEP. SGT.  
From William BROCK SGT  
Subject LAUNDRY SIT DOWN

June 5<sup>th</sup> 1973 I was assigned to Mess Hall #1 for the breakfast meal, at about 8:00 a.m. Mess Halls Barthel approached me and said, "he has a problem at the laundry every morning when he opens and stop. Residents from the ~~other~~ population come over to his shop and try to get in with their laundry to have contract work done. I asked St. Lawrence in reference to the above and asked would he go over to the laundry, while I am the incident to out of the mess hall, which was my assignment. St. Lawrence departed and when the mess hall was cleared of all residents, I went directly to the laundry to assist in any way I could. When I arrived at the laundry, St. Lawrence, Mr. Hazelton and Mr. Barthel were outside the laundry discussing the problem. I found that the incident assigned to the laundry, refused to go to us



STATE OF NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES  
EASTERN NEW YORK CORRECTIONAL FACILITY  
NAPANOCH, N. Y.

Interdepartmental Communication

Date 2/25/73

To

From

Subject Laundry S.T. Down (cont'd)

Mr. Hazelbline approached me and asked, would I talk to the residents? The residents were in the south end of the laundry, in one large group. I approached the group and asked, "could I assist in any way with the problem". One of the residents spoke up and asked, "can I change policy or procedures around here?", I said, "no", but "I will try and help if possible. They responded, and said, "no good" we went to see Mr. Perrin and no one else.

I telephoned and contacted Mr. Perrin and explained the situation, in turn, he replied and said, "it will send St. Blodis over. About 10 minutes St. Blodis arrived at the laundry and I explained to him the situation and problem. St. Blodis went over to the group and after several minutes of discussion, returned to the center of laundry (office area) and remarked we're not getting anywhere. He then departed laundry.



RE: LAUNDRY SITDOWN

I departed laundry and reported to my regular assignment at the Housing units. Mr. Bartley, Powell and Hagelton remained in the laundry.

Later on during the day I learned that the residents didn't go to work and they were sent back to their housing units and locked in.

Respectfully Submitted  
William Brook Sgt



STATE OF NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES  
EASTERN NEW YORK CORRECTIONAL FACILITY  
Napaaoh, New York

Interdepartmental Communication

Date.....March 1, 1973.....

To Chart Office  
From J. W. Perrin, DS/Security Services  
Subject CONTRACT WORK ON STATE AND PERSONAL  
CLOTHING

No contract work on State or personal  
clothing.

If any clothing is found in the Laundry  
without a laundry number or in possession  
of resident, laundry worker, it shall  
be confiscated.

Personal clothing shall be turned in on  
Saturday to the Personal Clothing  
Resident laundry worker.

J. W. PERRIN  
Deputy Supt.  
Security Services

JWP/rc  
cc: Supt. Patterson  
Laundry  
Laundry Issue  
File



## RULES AND REGULATIONS

### GOVERNING INMATES OF THE

EASTERN N.Y. CORRECTIONAL FACILITY

NAPANOCH, N.Y.

U. S. District Court  
So. Dist. N.Y.  
H-14

DATE MAY 25 1976

### INTRODUCTION

This booklet is furnished you so that you may become thoroughly familiar with what is expected of you as an inmate. Ignorance of the rules will not be accepted as an excuse for violations. It is to your benefit to know the rules. When in doubt concerning the intent of a rule, an explanation should be requested from an Officer. "Yard chatter" is not a reliable source of information.

When an inmate has been reported by an officer of the institution for violation of the governing rules and regulations, he will be brought before officials of the institution. A careful investigation is at once instituted in order that all facts may be available to it upon which a fair judgment can be made. Records of all reports for infractions of the rules are kept. Please keep in mind at all times that your conduct while in this institution will have a direct bearing upon the attitude of the Parole Board when they consider you for release.

Rules contained herein, and those prepared by the Superintendent from time to time and approved by the Albany Office, shall be closely observed and obeyed.

Note: "Officers" as used in this rule book may mean any employee in charge of inmates at the time referred to in the rule.

### ADDITIONAL RULES AND REGULATIONS ORDERS TO BE CARRIED OUT

1. Employees are required to report infractions of rules and regulations.
2. The inmate will be given a hearing by the Adjustment Committee, and if found guilty, will be dealt with in accordance with the seriousness and frequency of infraction. Serious offenses will be handled by a Superintendents proceeding.
3. Penalties may include reprimand or warning, loss of privileges, loss of time, restitution, confinement to cell for a period of time, placement in segregation.
4. All orders must be obeyed promptly and fully before making any complaint. If an inmate believes an order to be unjust or has any complaint concerning the order, or desires to complain concerning any action, he shall notify a staff officer who shall notify the Deputy Superintendent at the earliest possible moment.
5. Profane, vulgar or obscene language shall not be permitted.
6. Insolence in any form to institutional employees will lead to disciplinary action. Similar action may be taken when inmates are insolent to each other.



RULES AND REGULATIONS GOVERNING INMATES (Continued)

7. Fighting between inmates is strictly prohibited.
8. Inmates shall keep their persons, clothing, bedding and living quarters clean, neat and in order. Offensive and unhygienic procedures and activities must be avoided anywhere in the institution. Spitting on the floor, for example, is an unhygienic act.
9. Inmates shall not leave their place of assignment except by permission of the officer in charge.
10. If an inmate is sick, he shall report the fact to the officer in charge of his unit.
11. Caps shall be removed on entering certain parts of the institution, such as offices, school rooms, board rooms, chapels, auditorium and hospital. When appearing before the Commissioner of Correction, Deputy Commissioner, Parole Board, Superintendent or other officials, inmates shall arrange their uniform in as neat a manner as possible and shall stand at attention until otherwise directed.
12. Inmates will be held responsible for the abuse and destruction of State property.
13. Inmates must approach employees in a respectful manner.
14. Inmates must not speak to visitors, give or receive anything from them except by permission of the Superintendent or the Deputy Superintendent.
15. The purchase, sale, transfer or trading of any articles between inmates will not be permitted.
16. Inmates are not permitted to have money in their possession while in the institution. When money is found on them, it will be confiscated and any money so confiscated will be deposited in the Miscellaneous Receipts Account and remitted to the State Treasury in the manner prescribed by the fiscal statutes of the State.
17. Inmates will not be allowed to wear jewelry except watches valued under \$10.00 and wedding bands, if married.
18. The transfer of funds from one inmate to another for personal service, such as laundry work, cleaning of rooms, etc, is prohibited and under no circumstances will such requests be allowed.
19. An inmate shall not have in his possession any knives or tools except by permission of the person in charge. He must have a written permit to have such articles while away from his work assignment.
20. Inmates are conducted from one place to another about the institution in formation. They are expected to execute promptly orders and instructions given by the officers in charge of the groups. Inmates traveling about the institution on Institutional Passes shall go directly to and from destination noted on pass without delay or deviation. Loitering will not be tolerated.
21. Smoking will be permitted only in places and at times designated by the Superintendent.



RULES AND REGULATIONS GOVERNING INMATES (Continued)

22. Inmates shall not carelessly or willfully destroy tools, break machines, waste food, abuse wearing apparel, furniture or any other supplies and equipment furnished to them in connection with their maintenance and work.
23. Inmates shall conduct themselves in an orderly manner on entering and leaving the Mess Hall and throughout the meal.
24. Common decencies and courtesies shall be observed while eating.
25. Inmate shall eat what he takes, no waste of food will be allowed.
26. Inmates employed in the kitchen, bakery, storehouse, hospital, or other places in the institution where provisions or supplies are kept, shall not take, give away, trade or sell supplies and provisions.
27. While count is being taken, each inmate shall stand and remain standing facing the officer until the count is completed. Inmates are not required to stand for the check count after they have retired for the night. They must sleep with their faces uncovered.
28. Inmates shall clean the toilet bowl, lavatory, and other cell furniture regularly and keep them clean and neatly arranged at all times.
29. Institution rules must be obeyed with regard to the food that an inmate may have in his possession. Unhealthy and messy conditions must not be allowed to develop from food kept by inmates in their living quarters.
30. Inmates shall not tamper with radiators, windows, door locks, electric fixtures or radio head phones. If such fixtures do not operate properly, this fact should be reported at once to the officer on duty.
31. Boisterous noise and leud talk will not be allowed in the living quarters. Institution regulations concerning talking must be obeyed.
32. When the signal is given to retire, each inmate must prepare immediately to do so, turn out the light and get in bed. If, during the night, an inmate becomes ill or for other necessary reasons has occasion to call the night officer, the officer shall be notified when he is making his rounds, or immediately if a real emergency develops.
33. Before leaving their cells or dormitories in the morning, inmates shall clean them, put them in order, make their beds in the manner prescribed and turn out their lights.
34. Inmates are required to wear their best institution clothing to church. It is required that conduct and manners shall be what is desired by the Chaplain during church services.
35. If it becomes necessary for an inmate to leave during chapel services, he shall signal the officer in charge by raising the right hand. The officer will give proper attention to the request.
36. Inmates are not allowed to conduct religious services or teach religious beliefs to other inmates.



RULES AND REGULATIONS GOVERNING INMATES (Continued)

37. Letters may be written to and received from the approved list of relatives and such others as may be approved by the Superintendent.
38. Each inmate will be allowed one (1) letter per week at State expense. Additional letters may be approved by the Superintendent in unusual or exceptional circumstances. The privilege of correspondence may, under certain circumstances, be forfeited. Special letters are at an inmates expense.
39. Newspapers, magazines, and books approved by the Superintendent may be received by an inmate provided that his behavior record is good. A poor conduct record will lead to denial of privileges. Papers and periodicals must be received directly from the publishers.
40. Before permission will be given to an inmate to write letters and receive mail, he must sign an order authorizing the Superintendent or his agent to open and read his outgoing and incoming mail and to withhold such as he may deem proper.
41. Inmates are allowed to correspond with inmates of another penal institution only by special permission of the Superintendent and the head of the institution in which the inmate to whom they are writing is confined. Such correspondence shall not exceed one letter per month.
42. All letters must be written on the regulation paper furnished by the institution unless special permission is given by the Superintendent for the use of other paper. All writing paper not used by an inmate for writing his own letters must be returned to the officer in charge.
43. Inmates shall write their own letters, if possible, and must sign their names in full, together with their consecutive number. In case a letter is written by one inmate for another the writer must put on the letter the following notation - "Written by No. \_\_\_\_\_" (Giving his own number)
44. Inmates shall confine their correspondence to their own personal matters. Institutional matters and other inmates are not to be discussed in their letters.
45. Possible visitors of inmates are classified into three groups:
  - A. Inmate's immediate family consisting of Father, Mother, Sisters, Brothers and children. (Foster and step-parents, sisters, brothers, and children may be approved by the Superintendent as members of the immediate family).
  - B. Attorneys and members of the clergy.
  - C. Relatives not members of the immediate family, friends, and former inmates (Special permission required).
46. All persons allowed to visit inmates in the Eastern N.Y. Correctional Facility, with the exception of attorneys, spiritual advisers and parole authorities must be fingerprinted at the time of the first visit.
47. Inmates with a good conduct record may receive one visit per week. However, he may have only one (1) Holiday or Week-end visit per month.



RULES AND REGULATIONS GOVERNING INMATES (Continued)

63. Packages may be received from those persons whose names appear on the inmate's mailing or visiting lists.
64. All packages will be rigidly inspected to make sure that all articles conform to regulations.
65. Inmates may receive checks or money orders from those persons appearing on the mailing and visiting lists and other approved sources. No money is to be received directly by the inmate from visitors. Such money must be given to institutional authorities for adding to the inmate's deposit credit.



EASTERN N.Y. CORRECTIONAL FACILITY  
WAPPAUG, NEW YORK

INSTITUTION PROCEDURES

CELL BLOCKS

No smoking in Blocks when running in or out.

Stand at Door for Count.

Do NOT talk to Officer when he is making Count.

Do not deface walls by writing, pasting or nailing anything on them.

Sweep out cells twice daily - before breakfast and again after lunch.  
Sweep dust and dirt out thru bars.

Garbage is to be carried to front of cell block and placed in garbage cans.

Cell Inspection by Company Officer every Saturday.

Quiet bell at 8:00 P.M.

Lights out at 10:00 P.M. - undress and go to bed.

Earphones will be issued to inmate with Laundry # on them and it is the responsibility of the inmate to take care of them until he leaves the Institution.

Razor blades are changed on Wednesday and Saturday nights.

Equipment for cells will be issued by Cell Block Officer. Make request upon leaving Block in A.M.

MAIL

Incoming mail is given out after Lock-in by the 4-12 Officer.

SPECIAL LETTERHEADS - (must have stamps in account) - Issued Wednesday and Saturday nights.

SUNDAY LETTERHEADS - (No Stamps Needed) - 4 per month total - Issued Friday night.

COMMISSARY

Slips will be turned in to your Hall Officer two (2) days before your shop is scheduled. Half-day shop inmates at Armory go with their shop.

SICK CALL

Inmate wanting to go on Sick Call (Including Dentist) will report to assignment and will be picked up by sick call officer. Week-end and Holiday Sick Call will be held at 1 P.M., no Dentist on Saturday, Sunday and Holidays.



## INSTITUTIONAL PROCEDURES (Continued)

### MESS HALL

Waste no food. What an Inmate picks up, he must eat.  
Inmates will remain seated at all times.  
If a problem arises, inmate will call it to the attention of the Officer present.  
Common courtesies and common sense should be applied when eating and passing food.

### THE FOLLOWING FOOD IS ALLOWED TO BE TAKEN OUT OF THE MESS HALL:

Breakfast - Fresh Fruit only.  
Lunch - Week Days - NOTHING  
Lunch - Saturday, Sunday, and Holidays - 2 Slices of bread, meat in sandwich form and dessert.

THERMOS BOTTLES - can be taken into Mess Hall at night meal and filled with hot water by Attendant.

### YARD

Inmates will fall in and out of Formations when Yard bell rings, or when given the command by the Supervisor in Charge.  
Two (2) packages of cigarettes will be allowed to be carried.  
NO Commissary items are allowed in the Yard.  
NO Clothing is to be carried in the Yard.  
Card playing in assigned area only - 4 inmates to a table, with NO Spectators.  
NO CONGREGATING in Yard. MAXIMUM of 8 inmates to a group.

### GENERAL RULES

Inmates will report immediately to all formations.  
Formations will be covered down, paired off, and quiet.  
No smoking in Formation.  
Inmates will pay particular attention to any and all announcements that are made over loudspeaker in Yard and Armory.

ANY QUESTION PERTAINING TO THE RULES SHALL BE BROUGHT TO THE ATTENTION OF ANY OFFICER OR SUPERVISOR FOR CLARIFICATION.

Mr. M. M. Blow  
Superintendent